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2 **TRANSCRIPT OF THE INQUIRY**

3 Thursday, 19 May 2022

4 (10.01 am)

5 LORD BRACADALE: Well, good morning. Now, Ms Mitchell,
6 you're going to ask a question.

7 INSPECTOR STEVEN STEWART (continued)

8 Questions from MS MITCHELL

9 MS MITCHELL: Yes, sir.

10 Inspector Stewart, we heard you giving evidence
11 earlier in the week, and in that you said, in response
12 to some questions about training, you said:

13 "Answer: I actually run an equality and diversity
14 team just now in my current role, so I have done
15 equality and diversity and inclusion training."

16 And then you were asked:

17 "Question: What training are you giving officers in
18 relation to black stereotypes, or you have mentioned

1 situations down in England? Tell us a little bit about
2 that?"

3 And if I might just give you your response, you say:

4 "Answer: I mean in terms of hate crime, I review
5 hate crime on a daily basis. In terms of -- it's about
6 officers -- I suppose it's about officers being aware
7 and members of the public being aware of prejudices that
8 they might hold, what discrimination is, what a hate
9 crime is, what a hate incident is."

10 Now, what you said there, you responded -- and you
11 responded in relation to those who have hate crimes
12 perpetrated against them. What I'm interested in -- and
13 if you can help the Inquiry with this -- is can you tell
14 the Inquiry what, if any, training is being given to
15 police officers in relation to black stereotyping for
16 suspects?

17 A. So I mean that's -- that's really the sort of national
18 training team that would maybe be able to help you with
19 that. I feel I -- I don't deliver any specific training
20 on that side of things. I know that diversity awareness
21 training is given to all new probationary officers at
22 the police college, they spend two days doing it, and it

1 continues throughout their time there, so that's an
2 indication to me of the importance that diversity
3 awareness and training is given to new police officers.
4 And my view is that police officers continue to --
5 through their engagement with different communities,
6 protected characteristic groups, build upon their
7 experience and awareness of different communities and
8 groups, but in terms of specific training, I have not
9 had any specifically in relation to dealing with black
10 suspects, and I don't know what the organisation is
11 currently doing in relation to that. That's my personal
12 knowledge, but I know the organisation has a programme
13 called "Policing Together" which is being led by the
14 Chief Constable, so I imagine training going forward in
15 terms of inclusion may cover that, but I don't --
16 I can't really answer that question for you. I'm so
17 sorry.

18 Q. So at present you don't understand there to be any
19 training given to police officers in relation to black
20 stereotyping for suspects?

21 A. I don't know that. I can't answer that question for
22 you.

1 Q. And can I also just ask, when did the training in
2 diversity -- when did that start, that training? Are
3 you aware of when that was?

4 A. What training?

5 Q. The training in diversity that you mentioned, that you
6 were doing in relation -- when did that begin?

7 A. I received equality and diversity training with probably
8 about three or four years' service, is my recollection,
9 but the training for probationers starts as soon as they
10 go to the college, within the first few weeks, in terms
11 of that diversity training, and it's continued
12 throughout their time at college to give them that
13 understanding.

14 Q. And is it continued throughout your career or just that
15 period of time when you start?

16 A. Yes, so I -- obviously the training that happens at the
17 college, I have not had any formal training, sort of
18 refresher training going forward, specific training
19 going forward. For me it's stuff that I have learned
20 through my engagement with communities. I do a slightly
21 different role, the equality and diversity team is just
22 one of the teams that I run, but I've got a bit more of

1 an enhanced awareness about hate crime, how to support
2 communities, how to support victims and my team is about
3 engagement and supporting different communities and
4 groups across the country.

5 Q. And do we hear that that's rather self-taught as opposed
6 to any other training that you have actually been given
7 since you were a probationer?

8 A. Yes. I mean I have learned as a response officer, as
9 a response sergeant, as a community sergeant, every role
10 that I have undertaken I have learned on the job and
11 mixed with different groups, engaged with a whole
12 variety of communities, but inclusion is fundamentally
13 important to policing and, you know, I know that going
14 forward Police Scotland, through this Policing Together
15 programme, is placing it at the heart of the
16 organisation, so I feel confident that training will
17 continue going forward but the training I have had is my
18 initial training and some additional training about hate
19 crime championing, hate crime tactical advisor training
20 that's given, but that's delivered nationally,
21 specifically.

22 Q. But again, no training in relation to black stereotyping

1 of suspects?

2 A. No, no.

3 LORD BRACADALE: Thank you, Ms Mitchell.

4 Ms McCall.

5 Questions from MS MCCALL

6 MS MCCALL: Thank you, sir.

7 Inspector Stewart, the other day you were telling us
8 about communications between the control room at
9 Bilston Glen and officers on the ground.

10 A. Yes.

11 Q. I wanted to ask you about communications between the
12 control room at Bilston Glen and the Ambulance Service.
13 What role does the area control room play in
14 transmitting information received from officers on the
15 ground to the Scottish Ambulance Service?

16 A. So if officers are on the ground and required an
17 ambulance for an injured person or a casualty they would
18 ask the control room to make that call for them, so
19 within -- my understanding -- I have not worked in
20 a control room for six years or so, but my understanding
21 at the time was that each controller had a screen,
22 a NIC(?) screen which is almost like a telephone pad,

1 and there were different numbers on it, so you could
2 call the ambulance either slow time or through a direct
3 prioritised route, so if you went that way, which is
4 what they -- that was the working practice that they
5 had, if it was an urgent call, it would put you straight
6 through to ambulance control and they would recognise it
7 was police, so they would say "Hello police, how can
8 I help you", and then the information would be passed
9 that you needed an ambulance and the ambulance
10 call-taker at their end would have a list of questions
11 that they would have, standard questions that they would
12 ask about whether a casualty was conscious, breathing,
13 suffering from chest pains, serious bleeding, or any
14 other significant concerns that they had and that would
15 be relayed to the call taker -- they would have --
16 ambulance call-taker -- they would have their set
17 standard of questions and then they would then sort of
18 assess that or triage that and presumably dispatch an
19 ambulance with staff to the location of where the
20 officers were.

21 Q. So what I'm understanding from that is that the police
22 area control room doesn't communicate directly with

1 paramedics; it communicates through the ambulance
2 control centre?

3 A. Yes.

4 Q. What procedures, whether standard operating procedures,
5 protocols, MOUs, anything of that nature, are in place
6 to provide guidance on when and what information from
7 officers in the field should be passed to the
8 Ambulance Service?

9 A. So I mean, so there are current sort of protocols, new
10 protocols --

11 Q. Can we focus on 2015, please.

12 A. Okay. So in 2015 I'm not aware of any specific SOPs.

13 It would be phoning the ambulance and it would be a case
14 of providing the information as a member of the public
15 would probably, and then the questions that that
16 ambulance control room required would be asked and
17 responded to.

18 Q. I'm interested in how the information is transmitted.

19 So you have told us, I think, that the controller at
20 Bilston Glen can essentially phone the ambulance control
21 room --

22 A. Yes.

1 Q. -- so make an audio call to the ambulance control room;
2 is that right?

3 A. Yes.

4 Q. Where that happens, where contact is made between
5 Bilston Glen and the ambulance control, is that
6 communication recorded in any way?

7 A. I would imagine it is. All the communications within
8 the control room are recorded. As soon as you pick up
9 a phone and even start to dial a number, the information
10 records, so a call to the Ambulance Service, as best as
11 I can tell you, would be recorded and the details of the
12 call and the information contained within I think would
13 be recorded.

14 Q. Do you mean audio recorded, or recorded in some other
15 way?

16 A. Audio recorded it should be, voice.

17 Q. I think on Tuesday you said something in a different
18 context about -- you were asked about police officers
19 using the phrase "Just for the log" and I think you
20 described it as "police speak", but it refers to
21 recording something on the incident log?

22 A. Yes.

1 Q. The STORM log, is that right?

2 A. Yes.

3 Q. Would contacts between the control room at Bilston Glen
4 and the Ambulance Service be recorded on the STORM log
5 by the police end of that?

6 A. Yes, I mean, the controller might put a line on to say
7 "Ambulance contacted, reference number", and there might
8 be a reference number that they were given from the
9 ambulance control room and that might be on, but I would
10 expect a line to say "Ambulance contacted, aware and
11 attending", so that everybody was aware of what was
12 happening.

13 Q. Right. And you were asked the other day about
14 a transmission made by Acting Sergeant Scott Maxwell and
15 I wonder if you could just have a look again please at
16 the audio-visual timeline that you had in front of you
17 and I think it's on page 8 of that.

18 You will see in the second column from the left at
19 the time 07.26.52, there's an entry for Acting
20 Sergeant Maxwell. I will just read that just to refresh
21 your memory:

22 "Just for the log the initial on attendance this

1 male has attacked PC Short quite violently. As a result
2 he was sprayed with CS and PAVA and batoned. There may
3 be a suggestion that he has been batoned to the head
4 area."

5 And then he says "41 over" which I think is his
6 number.

7 The Inquiry has evidence from Sergeant Maxwell that
8 there were two purposes to that transmission, the first
9 being for the log, so to put it on the STORM record, and
10 the second being to make the Ambulance Service aware
11 that Mr Bayoh had been sprayed and may have a head
12 injury as a result of being batoned so that that was
13 passed to paramedics.

14 The Inquiry may hear that the paramedics never got
15 that information. Should the controller at
16 Bilston Glen, the police controller, have passed
17 Sergeant Maxwell's transmission in some form to the
18 Ambulance Service to alert them to the possibility of
19 a head injury?

20 A. I would imagine that they would -- the police controller
21 would have gone through and answered the standard
22 questions that had been asked and that if there was any

1 other information that was pertinent or relevant that
2 that would have been passed at the time. I mean someone
3 sprayed with spray or injured or had a head injury, that
4 information I would like to think would be passed to the
5 ambulance control. Whether they received that, I can't
6 comment on and whether they passed that information to
7 the paramedic who was attending I can't comment on
8 because that would be through ambulance processes.

9 Q. You understand I'm trying to work out where it is that
10 the communication broke down, if indeed it did break
11 down?

12 A. Yes.

13 Q. So that's something you would expect your controllers at
14 Bilston Glen to pass on to the Ambulance Service?

15 A. Yes, but it depends what the Ambulance Service actually
16 records. They may ask these questions, the information
17 might be passed, it might not be necessarily recorded by
18 them. I don't know, I would have to see the ambulance
19 control record to understand what was happening or hear
20 the transmission, and it's not necessarily a guarantee
21 that they would then pass that information out to the
22 paramedics.

1 Q. And in relation to this incident at Hayfield Road that
2 you have told us you were having an overview of and you
3 were the duty officer that day, do you know if that
4 information was passed by your controller at
5 Bilston Glen to the Ambulance Service?

6 A. I don't know if that specific information was passed
7 because I didn't make that telephone call, I didn't
8 speak to the controller to specifically ask "What did
9 you tell the Ambulance Service?" so I don't know the
10 answer to that, I'm sorry.

11 Q. All right. I wonder if you would just look at the STORM
12 log please and the number is PS 00232. It will come up
13 on the screen. We can just see -- if you just go
14 slightly down, Ms Wildgoose, that would be very helpful.
15 That's perfect, thank you. Just so we can orientate
16 ourselves, Inspector Stewart, you recognise that, I take
17 it, as the layout of a STORM incident log?

18 A. Yes.

19 Q. And if you just look at the boxes on the page at the top
20 left-hand box you see the date, 3 May 2015?

21 A. Yes.

22 Q. And we're just at 7.15 in the morning this log is

1 generated and you will see the address we're concerned
2 with here is Hayfield Road in Kirkcaldy, do you see
3 that?

4 A. Yes.

5 Q. I wonder, Ms Wildgoose, if you could just go down to the
6 bottom of page 2, thank you. I'm afraid the typing is
7 a little bit faint, Inspector Stewart, but do you see in
8 the second line up from the bottom --

9 A. Yes.

10 Q. -- you will see:

11 "4345 Scottish Ambulance Service contacted and two
12 ambulances attending."

13 Do you see that?

14 A. Yes.

15 Q. And then under that "S411", that's Sergeant Maxwell:

16 "Male attacked PC Short violently. Suspect has been
17 sprayed and batoned."

18 So it appears that control logged that in the STORM
19 log?

20 A. Yes.

21 Q. Then Ms Wildgoose, if you just go to the next page, just
22 the top please. Do you see the next entry there that's

1 put in is:

2 "Ambulance updated for the new location."

3 A. Yes.

4 Q. And do you see there's no record there of the ambulance
5 being updated for the information about Mr Bayoh's
6 condition and what may have happened?

7 A. Yes, I see that there's no update, but I don't know if
8 that information has been passed, but just not
9 necessarily put on the log.

10 Q. Is it the sort of thing that ought to be on the log?

11 A. The --

12 Q. If the information was passed, is it the sort of thing
13 that ought to be recorded?

14 A. You know, it's a -- that was obviously a fast-moving
15 incident. If -- I think the -- on the previous page it
16 does say that the ambulance -- so the ambulance have
17 been made aware -- can you go back just slightly? Would
18 that be okay?

19 Q. Certainly. Thank you.

20 A. So it says:

21 "Ambulance contacted. Requiring two ambulances for
22 officer and accused".

1 And then they have put:
2 "SAS contacted, two ambulances attending".
3 Yes, so they have put on it they have been in
4 contact, that they are attending. I wouldn't
5 necessarily expect them to put down that the information
6 they had passed was that the person had been sprayed and
7 struck with a baton to the head. I wouldn't necessarily
8 expect a controller to do that, but that information may
9 have been passed to the ambulance our side, I don't
10 know. I would have to understand what they had on their
11 records. I think that would be the only way to clarify.

12 Q. All right. So from your perspective, if the Inquiry
13 hears that the paramedics were never given the
14 information that Sergeant Maxwell is recorded passing on
15 there at the bottom of page 2, you can't help us with
16 whether that's a failure in your control room, or
17 a failure on the ambulance side of things?

18 A. No, but -- because I would have to understand what
19 the police controller who phoned for the ambulance
20 actually said to the ambulance controller and then what
21 that ambulance controller recorded and passed out to the
22 paramedics who were attending.

1 Q. Thank you. Just give me one moment, if you would.

2 (Pause).

3 I will just clarify one matter if I can with you,
4 Inspector Stewart, just so that we all understand what
5 you're saying about it. If you see at the bottom of
6 that, page 2 of the STORM log, the S411 transmission,
7 "The suspect has been sprayed and batoned", that's been
8 recorded by the controller in your control room on the
9 STORM record at the police end of things, is that right?

10 A. Yes.

11 Q. And you haven't seen, I think you said to us, the
12 ambulance equivalent --

13 A. Yes.

14 Q. -- incident log, so you can't tell us what's recorded on
15 that side?

16 A. No.

17 Q. All right, thank you very much. Thank you, sir.

18 Questions from LORD BRACADALE

19 LORD BRACADALE: Inspector Stewart, I would like to make
20 sure that I correctly understand your evidence in
21 relation to the issue of command. You said on Tuesday
22 at page 199 of the transcript:

1 "I'm not controlling what happens on the ground,
2 unless it becomes a firearms incident, in which case
3 I take charge of the incident in its entirety."

4 Do you recall saying that?

5 A. Yes, sir.

6 LORD BRACADALE: Now, am I correct in understanding from
7 your evidence on Tuesday that you did not take command
8 of the incident as it developed in Hayfield Road on the
9 day?

10 A. Yes, sir. The command of the incident was with local
11 policing at that time.

12 LORD BRACADALE: So if you didn't take command of it, the
13 command is with the local policing?

14 A. Local policing inspector, local policing sergeant who
15 were responsible for that area at the time.

16 LORD BRACADALE: And did you know who that was?

17 A. I didn't know the name, I don't know these people
18 specifically, but it would have been obviously
19 Stephen -- I can't remember his name, if it was Kay, was
20 the inspector, and obviously the sergeant is
21 Scott Maxwell.

22 LORD BRACADALE: Well, thank you very much for your

1 evidence, inspector. You will understand that an
2 Inquiry of this nature is such that we sometimes have to
3 go back and look at things again as we go along and
4 there may be some issues arising from your evidence that
5 I would like to have another look at, so it may be that
6 we will revert to you at some point, but mean time,
7 that's the end of your evidence. Thank you.

8 A. Thank you, sir.

9 LORD BRACADALE: Now, I will adjourn so that the next
10 witness can be put in place.

11 (10.23 am)

12 (Short Break)

13 (10.28 am)

14 LORD BRACADALE: Now, Ms Grahame, the next witness is
15 Mr Walker, is it?

16 MS GRAHAME: Yes, PC Craig Walker.

17 LORD BRACADALE: Thank you.

18 Good morning, Mr Walker. Would you raise your right
19 hand and say the words of the oath after me.

20 PC CRAIG WALKER (sworn)

21 LORD BRACADALE: You're now going to be asked questions by
22 Ms Grahame.

1 Ms Grahame.

2 Questions from MS GRAHAME

3 MS GRAHAME: Thank you. Good morning, PC Walker. Your full
4 name is Craig Walker?

5 A. It is, yes.

6 Q. And what age are you?

7 A. 41.

8 Q. And how many years' service do you have?

9 A. 17.

10 Q. And your contact details are known to the Inquiry so we
11 won't be saying those out loud today.

12 We have a number of documents from you and I would
13 like to go through those first to make sure I've got the
14 right things.

15 A. Yes.

16 Q. So the first thing I would like you to look at is the
17 statement you have produced to the Inquiry. Now,
18 when -- you may have seen from other evidence in the
19 hearing that as I refer to statements, Ms Wildgoose will
20 bring them up on the screen, and I will maybe refer to
21 particular paragraphs and she will display those on the
22 screen in front of you.

1 A. Yes.

2 Q. But in addition I can see you have looked at the black
3 folder and we have given you hard copies, so if at any
4 time you want to refer to the hard copy or see what's
5 around the passage on the screen, please feel free to do
6 so. That's there for your use.

7 So the -- can we look at the first page. This was
8 a document prepared by you, or you and your solicitors,
9 and it says it is a response to Rule 8 request. Just to
10 explain to people, that was a written request from the
11 Inquiry with almost 100 questions in it which you have
12 then responded to and you have provided us with what's
13 effectively a written statement?

14 A. Yes.

15 Q. And can we go to the last page of that? Do we see --
16 now on the screen you will see that there is
17 a signature -- a place for a signature, but it's been
18 redacted for the purposes of displaying it on the
19 screen, but the version you should have in your copy,
20 can I say that's been signed -- the statement has been
21 signed by you?

22 A. Yes, that's correct.

1 Q. And you will see at the top of the page on the screen it
2 says:

3 "I believe the facts stated in this witness
4 statement are true. I understand that this statement
5 may form part of the evidence before the Inquiry and be
6 published on the Inquiry's website."

7 And in light of that, you have signed the statement?

8 A. I have, yes.

9 Q. And that was a paragraph, or a sentence that -- two
10 sentences that the Inquiry asked you to insert into your
11 statement?

12 A. Yes, that's correct.

13 Q. Thank you. Now, could we go down slightly. The
14 redactions cover the signature, but you will see the
15 date is given as 4 July 2022. Now, although I might
16 forget the date, I know it's not July?

17 A. Yes.

18 Q. So was that more likely to be April or May?

19 A. It was signed electronically so I would have to assume
20 that that's American format for 7 April.

21 Q. So it was 7 April?

22 A. Yes.

1 Q. Thank you. That's that mystery solved then, thank you
2 very much. So you signed that on 7 April and sent it
3 into the Inquiry after that.

4 A. Yes.

5 Q. Thank you. Now, can I ask you to look at -- I will come
6 back to that in a moment, but I would like to go through
7 the other documents we have first, if I may.

8 So there's a statement which is PIRC 00265 and you
9 will see that this is a statement -- we can see it on
10 the screen -- a witness statement with your name, and
11 could we go up slightly, or down, thank you, and it says
12 "Statement taken" and it says "By: self". Could you
13 explain what this statement is?

14 A. Yes, shortly after the incident I prepared a statement
15 myself just so -- whilst the things were fresh in my
16 mind. I prepared that statement just so that I would
17 have one ready to hand over.

18 Q. And do you remember the date that you prepared that
19 statement?

20 A. No. I was off work at the time, so, no, no
21 recollection.

22 Q. Other than the exact date, can you give us an indication

- 1 of how long after the events you prepared it?
- 2 A. Probably I would say a week after the event, but, aye,
- 3 certainly -- a week.
- 4 Q. So within that week --
- 5 A. Yes.
- 6 Q. -- or a week after the --
- 7 A. Yes, whilst it was still really fresh in my mind
- 8 I committed it to paper.
- 9 Q. Thank you. And what was the purpose of preparing this
- 10 statement?
- 11 A. Just so, like I say, so things would be fresh in my mind
- 12 at the time, just so I had a statement ready to go that
- 13 I could refer to and just have notes basically.
- 14 Q. So when you were preparing it, were you trying to be as
- 15 thorough and as truthful as you could be in your
- 16 recollection?
- 17 A. Yes, because I would need to rely back on it at some
- 18 point.
- 19 Q. Thank you. And what did you do with that statement?
- 20 A. When I was asked to give a statement to the PIRC I took
- 21 it along with me and I handed it over to them to say
- 22 that I had a statement prepared so if nothing else,

1 I could give them a starter for 10 for their statement.

2 Q. Thank you. Can we turn to PIRC 00264, please, and you
3 will see this is another statement and again, by
4 yourself and if we can go down the screen. This says it
5 was taken on 4 June 2015 at 11.55 hours and it was taken
6 by DSI Keith Harrower at the Scottish Police College in
7 Tulliallan?

8 A. Yes, that's correct.

9 Q. So this is the date and time that you gave your
10 statement to PIRC?

11 A. Yes.

12 Q. Thank you. And did you sign that statement, do you
13 remember?

14 A. I did, yes.

15 Q. And were you given an opportunity to read over it or
16 have it read to you and make any changes that you
17 wished?

18 A. I was, yes.

19 Q. And did you make any, as far as you can recall?

20 A. Not that I could recall, no. I just signed the bottom
21 of every page.

22 Q. So you're happy with this statement as well?

1 A. Yes.

2 Q. Thank you. Then finally, can I ask you to look at
3 a map. I think this may be a COPFS number, 05965. Do
4 you recognise this map?

5 A. Yes.

6 Q. And you see at the bottom it's got your name on it?

7 A. Yes.

8 Q. And there's markings on it as well. Who drew those
9 markings?

10 A. I did. I was asked to do so.

11 Q. And who were you asked to do so by?

12 A. By the PIRC investigators.

13 Q. Was this given at the time that you gave your statement
14 to them?

15 A. It was, yes.

16 Q. Thank you. And again, was that provided along with the
17 statement to PIRC to give as true and accurate a record
18 of events as you were able to recall?

19 A. Yes, that's correct.

20 Q. And -- thank you very much, that's fine, Ms Wildgoose.

21 Then last week your legal representative, the Dean
22 of Faculty, indicated in his opening statement that you

1 are determined to assist the Inquiry in every way you
2 can and to provide your evidence to assist the Inquiry
3 and that's why you're here today.

4 A. That's correct, yes.

5 Q. Thank you. And does that remain the position?

6 A. It does, yes.

7 Q. Thank you. So you have your hard copies. Please feel
8 free to look at them. I will also be showing you some
9 footage and that will come up on the screen as we go
10 through the questions today, but it is my intention
11 today to go through the paragraphs from your Inquiry
12 statement and to ask you some further detail.

13 First of all, I would like to ask you about hearing
14 the Airwaves messages on 3 May 2015. So you have said
15 in your statement you were driving a marked white Ford
16 Transit van with lights?

17 A. Yes.

18 Q. And if we could have up actually on the screen
19 PIRC 00265, page 3, paragraph 2. You will see that this
20 is the self-penned statement that you handed to PIRC.

21 A. Yes.

22 Q. And I will read this out to you for the moment:

1 "En route to the call blue lights were utilised
2 throughout the whole journey. However, at no point did
3 I utilise the police siren. Due to the time of day and
4 day of the week traffic was light. Also the van's
5 sirens are located on the roof which is poorly insulated
6 and would have resulted in radio messages being misheard
7 or missed completely which would have caused further
8 confusion regarding the actual locus and context of the
9 calls received being missed."

10 Can you provide to the Chair a little bit more
11 information about what you have said there about you
12 have not used sirens, but you have said there's poor
13 insulation in the vehicle?

14 A. Yes, the sirens and lights are located on the roof.
15 When the sirens are activated you could hear it quite
16 loud inside the van. I mean, the van is just a big
17 metal container, sound echoes round and about and is
18 actually quite loud, because you're basically sat right
19 underneath the sirens so it could make things difficult
20 to hear. And the van itself in general is loud because
21 it has obviously the cell in the back as well and
22 everything kind of rattles about so.

- 1 Q. But you weren't using sirens that day?
- 2 A. No.
- 3 Q. Now, we have heard that there's a radio in the van; was
4 that the position on the day?
- 5 A. Yes.
- 6 Q. And we have heard that officers have radios sort of on
7 their shoulder?
- 8 A. Yes.
- 9 Q. Can you show us where you were wearing your radio that
10 day?
- 11 A. Mine was on the top clip on the left-hand side.
- 12 Q. So your left-hand shoulder?
- 13 A. Yes.
- 14 Q. Thank you. What channel was it tuned into?
- 15 A. The Kirkcaldy channel, Kirkcaldy 1.
- 16 Q. Thank you. And apart from the sirens, which you didn't
17 have on, were there any other issues with the van or
18 your radio that caused you to potentially mishear
19 messages?
- 20 A. I wouldn't say so, no, just other than the general
21 background noise of the van going along the roadway,
22 there was nothing else.

1 Q. So just normal noises of the vehicle driving along the
2 road?

3 A. Yes, aye.

4 Q. In relation to the van you were driving, is that
5 a common problem with all vans, or was it only with the
6 Ford Transit van that you were driving, with the noise
7 of the sirens?

8 A. I think it was mainly the transit, if I mind right -- as
9 I say, the sirens were located on the roof and I think
10 the rest of them have them sort of in the front bumper.

11 Q. So the officers in other vans, smaller vans perhaps,
12 aren't sitting right underneath the sirens?

13 A. Yes.

14 Q. Okay. Is that something that people were aware of
15 generally in the Police Force, or -- Police Service, or
16 was it something that had been raised?

17 A. No, it was just from experience, just that -- aye, the
18 sirens could be a bit overpowering sometimes, so you
19 didn't need them then.

20 Q. Okay. Right. And then can I ask you, staying with this
21 statement, if that's possible, please, I would like to
22 look at page 2, paragraph 2. So again, this is your

1 self-penned statement and it says, at paragraph 2,
2 that -- if I can just find it. Can I look up slightly.

3 Yes, right, the paragraphs aren't clearly defined but
4 you will see the start of the second paragraph is "About
5 0720 hours", you have that one?

6 A. Yes.

7 Q. And if you go down seven lines from the top and it says:

8 "At this time APS [Acting Police Sergeant] Maxwell
9 came on to the radio to instruct all available units to
10 start making their way to locus. He also requested that
11 the armed support unit, the ARV, and the dog unit be
12 instructed to attend. I was aware that he was informed
13 that there was no ARV available and that control would
14 need to check on the availability of a dog."

15 Do you see that there?

16 A. Yes.

17 Q. And then could I ask you to look at your other statement
18 as well, please. This is the PIRC 264 that you gave on
19 4 June, and it is page 3 on this statement that I would
20 like to look at and it is the final paragraph on page 3
21 and it -- the passage that I'm interested in asking you
22 about is:

1 "... I heard a radio broadcast from
2 Sergeant Maxwell ..."

3 So it's the second last line on that page, do you
4 have that?

5 A. Yes.

6 Q. So this is the PIRC statement that you gave to PIRC on
7 4 June and it is page 3 and it is the final paragraph.

8 A. Mm-hm.

9 Q. And it is also on the screen and the last two lines are:

10 "... I heard a radio broadcast from Sergeant Maxwell
11 requesting all units to attend this call. He then asked
12 the control room about the availability of an ARV, which
13 is an armed response vehicle with firearms officers, and
14 also a dog vehicle. The control responded by saying
15 there was no ARV and they would check for a dog vehicle
16 but they thought the dog was through west. I think
17 PC Paton acknowledged we were en route."

18 Do you see that?

19 A. Yes.

20 Q. So again, it was your understanding at that stage that
21 all units were -- had been requested to attend the call?

22 A. Yes.

- 1 Q. And there was no ARV available?
- 2 A. Correct.
- 3 Q. And they were checking whether a dog unit was available?
- 4 A. Yes.
- 5 Q. Can you explain what your understanding was when it says
- 6 "All units attending"?
- 7 A. Basically anybody that's not committed with an
- 8 ongoing -- or who can free themselves up, to start
- 9 making their way to that incident.
- 10 Q. How many people would that have been? How many officers
- 11 would that have been?
- 12 A. On that day?
- 13 Q. On that day?
- 14 A. On the response it would be eight, I think, eight or
- 15 nine.
- 16 Q. And would you have expected about eight people to turn
- 17 up that day?
- 18 A. Yes, if they're requesting for all units to attend, then
- 19 yes.
- 20 Q. And then I understand that you have said in your
- 21 statement you and PC Paton re-routed from other work?
- 22 A. Yes.

1 Q. Can you give us a little bit of an explanation about how
2 that came about?

3 A. We were heading down to an alarm activation at
4 a property that was on the Esplanade that had come in
5 earlier that day and was being monitored by the town
6 CCTV. We were just going to go down and do a quick
7 check of the front doors and make sure it was secure,
8 and that was the reason that we were out and about and
9 mobile at that time, and then obviously when this call
10 came in, it was of a more severe call grading and so we
11 decided obviously because we've got the big custody van
12 as well, that we would stand down for that call and head
13 towards the locus for this one.

14 Q. So you stood down from the less important -- less
15 serious --

16 A. Yes.

17 Q. -- call and rerouted to Hayfield Road?

18 A. Yes.

19 Q. I would like to now play a part of the enhanced video
20 timeline, please. I don't know if you have seen or
21 watched any of this before?

22 A. I have, yes.

1 Q. You have been watching some of it. You will also see in
2 front of you there's a spreadsheet that I have been
3 referring to, that's it. And just to explain to you,
4 you will have seen other people look at it, but it's
5 a spreadsheet, it's on A3 paper, and on the left-hand
6 side on the column there are timings given. You have
7 maybe watched me referring to that, so the video -- the
8 first row in the spreadsheet on page 1 is 07.09.20 and
9 that's the real time on 3 May 2015 and you will see on
10 the left that there's a number of timings given as the
11 spreadsheet goes down and then you will see just to the
12 right of centre, a description of visible events and
13 a video, which is just a thumbnail sketch of what's seen
14 on the footage, and to the left of centre, you will see
15 there's a transcription of the Airwaves messages. Do
16 you see that?

17 A. Yes.

18 Q. So as we go through the footage, I want you to know that
19 you will see on the screen that we've got the footage
20 itself. Let me tell you what we see here: the real time
21 clock in the top left-hand corner and that will -- the
22 time on that real time clock corresponds to a timing in

1 the spreadsheet, so you can look at that, you can look
2 at the spreadsheet.

3 And you will see that underneath the real time clock
4 there's a couple of buttons: 101 calls and 999 calls.

5 A. Mm-hm.

6 Q. And if you hear them playing in the footage, the red
7 button will light up. Then there's a green button that
8 says "Airwave" and again if you can hear an Airwave
9 message on the footage, that green button will be
10 turning on. You will probably recognise those messages
11 anyway.

12 A. Yes.

13 Q. The bottom left you have probably heard us talk about
14 the dash cam footage, that was from Harry Kolberg's car,
15 he gave evidence last week, and on the bottom right at
16 the moment we can see CCTV footage from Gallaghers pub
17 and in the distance you can see the roundabout and
18 beyond that is Hayfield Road.

19 A. Yes.

20 Q. You maybe recognise that scene?

21 A. I do, yes.

22 Q. And then in the top, in the middle of the screen, you

1 will see a tile with the name "Reconstruction" written
2 on it. Now, I don't know if you have listened to any of
3 the evidence from Advanced Laser Imaging --

4 A. I did, yes.

5 Q. That's great. You will see that there's the roundabout
6 there at Hayfield Road -- the junction of Hayfield Road
7 and Hendry Road, and you can see along Hayfield Road.
8 And actually at the moment on the screen the real time
9 is 7.16.22 and you will see in that reconstruction a bus
10 stop on Hayfield Road and at the moment there's a small
11 blue dot, and you will remember when Mr DeGiovanni gave
12 evidence for ALI he talked about when they could see
13 movement on the CCTV they put a blue dot or a blue
14 cylinder into the reconstruction.

15 So sometimes those blue dots will be there and
16 sometimes they won't --

17 A. Yes.

18 Q. -- it depends whether anything could be seen on the
19 CCTV. Are you comfortable with the screen?

20 A. Yes.

21 Q. Thank you. So what I would like to do now is to play
22 a section and I think the best way to do this,

1 Constable Walker, is we will play a slightly longer
2 section from 7.16.22, and we will play it up to 7.20.06
3 to give you the chance to see it for yourself and look
4 at it and listen to what's being said, and then I will
5 come back and ask you some questions about that, all
6 right? So we will play from 7.16.22 to 7.20.06. Thank
7 you very much.

8 (Video played)

9 So you have -- that's a recording of all the
10 messages, the Airwaves transmissions at the time, prior
11 to you arriving.

12 A. Yes.

13 Q. And we -- the spreadsheet indicates that PC Paton was
14 one of those voices?

15 A. Yes.

16 Q. Did you hear PC Paton's voice?

17 A. I did, yes.

18 Q. And that's the man who was with you that day in the van?

19 A. Yes.

20 Q. And were you actually -- I think you have told us in
21 your statement you were doing the driving and PC Paton
22 was the passenger?

- 1 A. That's correct, yes.
- 2 Q. Front passenger seat?
- 3 A. Yes.
- 4 Q. And if it's a custody van, presumably there's not any
5 rear seats other than for custodies, is that right?
- 6 A. The way that -- the vans have changed, but if I mind
7 right, there is one -- on their(?) vans I think there
8 was one rearward-facing seat, so when they've got
9 somebody in the custody cage you could sit in there and
10 keep an eye on them for their health and wellbeing.
- 11 Q. So the van actually has a custody cage in it for people
12 that you take into custody?
- 13 A. Yes, aye.
- 14 Q. Thank you. So apart from those transmissions, at any
15 point were you making point-to-point calls or
16 transmissions individually?
- 17 A. No.
- 18 Q. No. If you could look, please, at -- it might be easier
19 to look at the spreadsheet at 7.19.12. So you will see
20 at the bottom of page 2 that the Con 1, who we have
21 heard are the control room operators in ACR in
22 Bilston Glen, say, in response to Maxwell at 7.19.12:

1 "Is there an update from ARV or dogs unit?"

2 And at 7.19.17 Con 1 says:

3 "I believe a dog unit is en route."

4 And then at 7.19.23 Con 2 says:

5 "Be aware, organising ARV as well, stand by."

6 Could you explain, in your self-penned statement and
7 your PIRC statement you were under the impression that
8 an ARV wasn't available --

9 A. Mm-hm.

10 Q. -- and they were checking on a dog, but from these
11 transmissions that we have listened to now it appears
12 that a dog unit is en route is a message that was
13 transmitted at 7.19.17, and they were organising an ARV,
14 a few seconds later.

15 A. Yes.

16 Q. Are you able to explain why your recollection at that
17 time was different from what we can hear on the footage?

18 A. My recollection was that there was -- they would check
19 for a dog unit and they were basically saying that they
20 believe a dog unit is en route but that hadn't been
21 confirmed, therefore -- there's a big difference between
22 believing something is getting organised and they're

1 actually coming, and as for the ARV, I think I would
2 have been aware of that, that on a Sunday morning we
3 wouldn't have had a local firearms unit.

4 Q. We have heard from Inspector Stewart that the ARVs on
5 unit that day, the nearest one was Edinburgh?

6 A. Yes.

7 Q. Thank you. So can I now look at your PIRC statement,
8 page 4, not the self-penned one, the PIRC statement,
9 264. And it is page 4, paragraph 2, please. You will
10 see the second line of the paragraph that begins:

11 "I immediately carried out ..."

12 And it says:

13 "As I drove into Abbotshall Road a second call came
14 over the radio from the control room. They said another
15 motorist was reporting a male with a knife in
16 Victoria Road. It could have been at this point he was
17 described as being in possession of a sword, or slightly
18 later, before we arrived."

19 And then can I look at the self-penned statement
20 please, which is 265, and it is page 2, please, at the
21 bottom of the page. And again, the paragraphs aren't
22 really clearly defined, but you will see one that

1 begins:

2 "Whilst travelling north on Bennochy Road ..."

3 Can you see that?

4 A. Yes.

5 Q. And it says at the end of that line:

6 "... I was aware of further information being passed
7 via police radio. I was aware that five separate calls
8 had been received about the male and that a description
9 of a large, muscular, black man wearing white T-shirt
10 and black jeans had been passed. I'm also aware that
11 the weapon he was carrying had been described as both
12 a large knife and sword. It was also stated that the
13 male appeared to be under the influence of a substance
14 and was attacking passing cars, running out into the
15 street at the vehicles."

16 Now, please feel free to look again at the
17 spreadsheet, but it doesn't appear in the Airwaves
18 transmissions that we have listened to on the footage
19 that there's any mention of the word "sword" and again,
20 can you explain to the Chair why your recollection was
21 different in your PIRC statements and your self-penned
22 statement? Were there any calls going on behind the

1 scenes, or anything along those lines?

2 A. No, no other calls were going on and I can't explain.

3 That was my recollection at the time for both

4 statements. That's what I had heard.

5 Q. You're not able to hear the 999 calls coming in to ACR?

6 A. No.

7 Q. There was one mention of the word "sword" at that time,

8 a female operator used the word "sword". We have heard

9 that in relation to evidence given by Simon Rowe earlier

10 in the hearing, although his response to that was "No,

11 it was a big kitchen knife", so that's the one reference

12 I can find to "sword"?

13 A. Right.

14 Q. But you're not aware of any other calls that you had

15 heard?

16 A. No.

17 Q. Thank you. So you have just misremembered that?

18 A. Yes.

19 Q. Then I would like to ask you what was in your mind and

20 what thought processes you were going through en route

21 and you have answered questions about this in your

22 statement so let's look at that first of all, answers 8

1 to 10 in your Inquiry statement, so please have that in
2 front of you if that makes life easier, and paragraph 8
3 is on the screen now. You are talking about "During the
4 journey to the locus", and you had a brief discussion
5 with PC Paton on tactics and worst case scenarios:

6 "I was very concerned about the nature of the
7 incident and the number of calls being made by the
8 public and the nature of the reports being made, being
9 that he was attacking passing vehicles and he might be
10 prepared to attack us when we arrived. PC Paton and
11 I both considered the near to locus mental health
12 hospital at Whytemans Brae and the main hospital, the
13 Victoria Infirmary, and the fact that he may be
14 a patient from either. Due to the overt nature of his
15 actions, I also considered that he was doing this to get
16 the police to attend to either target officers or to
17 elicit a suicide-by-cop scenario."

18 Then if we could look further down, you will see:

19 "The only factors considered when assessing the risk
20 were the words 'big', 'muscular' and 'carrying a knife'.
21 Race did not play a part in my risk assessment."

22 Then 10:

1 "I have been asked about the Airwaves calls made at
2 07.20.13 ..."

3 And I will come on to that later. And then again,
4 you refer to this at paragraphs 23 to 25 and so we will
5 see 23 on the screen. Again, you talk about the journey
6 to Hayfield Road and discussing matters with PC Paton
7 and you said:

8 "... if the male was as described, being in
9 possession of a knife, and attacking vehicles, I would
10 consider using the police vehicle to strike the male
11 should I deem the risk to the public and officers to be
12 too high."

13 And then 24 you say:

14 "I have been asked about what I was thinking and
15 feeling whilst en route. As I was driving the police
16 vehicle in a response style I was unable to dwell on the
17 call itself. I was aware, however, of the number of
18 calls being received from different independent and
19 credible witnesses who were all stating the same thing:
20 a male in possession of a knife striking out at anything
21 that comes near him."

22 And 25:

1 "I was aware that this was a high risk situation and
2 that the male's behaviour was drawing the attention of
3 many witnesses. I was of the opinion that this was
4 a serious incident and the male was posing a real risk
5 to the public and himself. I was concerned for my own
6 safety given the level of threat being described over
7 the radio and the number of calls being received by
8 the police."

9 So I have read all those quickly just to focus that
10 those are the areas I'm going to be asking you questions
11 about now, the journey there. Before I go into the
12 detail of those paragraphs, can I ask you, when you were
13 on the way to the scene, as far as you were concerned,
14 who was in charge and had taken control or command of
15 the attendance at the incident?

16 A. At that point for oversight of the incident it would
17 have been the local sergeant, Scott Maxwell.

18 Q. Scott Maxwell?

19 A. Yes.

20 Q. The local sergeant. We have heard he was an acting
21 police sergeant at that time?

22 A. That's correct, yes.

1 Q. Now it may have been suggested that Stephen Kay had some
2 involvement at that stage; are you aware of that?

3 A. He is the overview inspector, but I don't think he had
4 been on the radio or anything at that point so yes, it
5 was in the hands --

6 Q. So it was Sergeant Maxwell?

7 A. -- the hands of Sergeant Maxwell at that point, yes.

8 Q. Thank you. When you were en route, did Sergeant Maxwell
9 give you any specific instructions or guidance about how
10 to approach the incident?

11 A. No.

12 Q. Can I go back to paragraph 8 of your statement to the
13 Inquiry? So this was the first paragraph that I looked
14 at with you during the journey. Looking at the content
15 of that paragraph, can I ask you what was it about the
16 nature of the incident that made you concerned?

17 A. The fact that it had been passed as an ongoing
18 disturbance, that there was a male in possession of
19 a knife and the word "chasing" was used in the call that
20 was passed over, and the fact that it was, like I say,
21 quite an overt thing about -- normally when you get
22 a call, it's like two people fighting and somebody might

1 be in possession of a knife, but this gentleman is
2 clearly chasing somebody, or it was passed as chasing
3 somebody and was in possession of a 9-inch -- or I --
4 described as a large knife.

5 Q. So that elevated your concern levels?

6 A. Yes.

7 Q. And what was it about the number of the calls that were
8 being made by the public that caused you concern?

9 A. Let's say the fact it was overt, his actions were being
10 noticed by so many different people to the point that
11 they felt the need to phone the police about his
12 actions, and if nothing else, it corroborates that it is
13 actually happening, it's not just somebody that has got
14 a vendetta against someone who is phoning in. You know
15 this is credible members of the public, numerous
16 credible members of the public all phoning in to report
17 exactly the same thing.

18 Q. And we have heard discussion about attacking vehicles
19 and you mention that specifically in paragraph 8. Was
20 it of note to you that he wasn't said to be attacking
21 people? Did you distinguish between him attacking cars
22 or vehicles and attacking -- not attacking people?

1 A. No, because --

2 Q. Did that matter to you?

3 A. Well, it showed that -- or certainly in my mind it
4 showed that he was not just carrying the weapon for
5 intimidation, he was using the weapon, he had an intent
6 to strike out, so yes that's certainly something. If
7 someone has possession of a knife it could be to harm
8 themselves, but if they're using it to strike out at
9 other things, then you have to go on the assumption that
10 they're looking to harm other people, so yes, you have
11 to take that into consideration before approaching them.

12 Q. When you say other people, what were you thinking about
13 you and PC Paton?

14 A. Just come back to officer safety. Obviously knives are
15 dangerous. You only need one wound and that could be
16 fatal, so aye, you've got to be careful with knives.

17 Q. How common is it or was it in your experience at that
18 time for officers to be attacked by someone with
19 a knife?

20 A. It's not unusual, it's something that you've got to be
21 careful of, certainly I'm always keen to get handcuffs
22 on somebody as soon as possible if they're being

1 violent, don't give them the opportunity, but yes, it's
2 a constant, ongoing risk. You only need to be attacked
3 once and then you don't go home that night, so it's
4 something that you have to be acutely aware of.

5 Q. When you use the words "not unusual", can you help the
6 Chair understand what that meant to you at that time in
7 terms of your everyday practice?

8 A. In that I was -- I mean it's always at the back of your
9 mind that the next person that you deal with could
10 produce a knife. It didn't need to be a knife, they
11 could just lash you enough to cause serious injuries to
12 you that requires hospitalisation. It has happened to
13 colleagues that I know who now have metal plates in
14 their faces, et cetera. So yes, I mean, officer safety
15 is always at the forefront of what you do because at the
16 end of the day I want to go home to my family at the end
17 of the day also, so it's something that we have to be
18 acutely aware of.

19 Q. And are those officers who have been injured in the
20 past, are they in Kirkcaldy Police Office or have they
21 worked with you in that area?

22 A. Yes, there are officers in Kirkcaldy who I'm aware of

1 have been injured in the line of duty, both before the
2 incident and since.

3 Q. Also in paragraph 8 you mention the hospital, the
4 psychiatric hospital, Whytemans Brae, and you say that's
5 near to the locus.

6 A. Yes.

7 Q. Near to Hayfield Road. Could we have a look at the
8 scene overview, please, and Ms Wildgoose will bring this
9 up on the screen, it's a map that we have been using.
10 You may recognise this as well if you have been watching
11 evidence.

12 Now, we have heard that -- it's Hendry Road, north
13 to south in the middle of the map, Templehall Avenue is
14 on the left, and the big yellow road on the right going
15 towards the east is Hayfield Road.

16 A. Yes.

17 Q. Do you recognise that area?

18 A. I do, yes.

19 Q. Would you be able to point out to the Chair where the
20 psychiatric hospital is, Whytemans Brae?

21 A. That's about there.

22 Q. Thank you. That's where number 1 is. And then also to

1 Victoria Hospital, where is that?

2 A. That's the big large building to the south of that.

3 Q. So there's two hospitals reasonably close to

4 Hayfield Road?

5 A. Yes.

6 Q. How far is Whytemans Brae from Hayfield Road, would you
7 say? Can you give an indication?

8 A. It's on --

9 Q. Basically on the same --

10 A. Yeah, I mean that's the junction, Whytemans Brae and
11 Hayfield Road is at that junction.

12 Q. Oh, so you would access the hospital from the junction
13 on Hayfield Road to Whytemans -- oh, I see
14 Whytemans Brae is the name of the street as well as the
15 name of the hospital?

16 A. Yes, yes.

17 Q. Sorry, I was confused.

18 So tell me, you obviously considered that; what
19 impact did the location of those hospitals have as you
20 were approaching the incident? What was going through
21 your mind?

22 A. Just that's something to bear in mind, that they could

1 be from there, it could be related to that. It's
2 just -- I mean at the -- when you're travelling to it,
3 you're just trying to put some context around about the
4 call. This comes back to the decision-making model,
5 just thinking about as much intelligence as you could
6 get, what's round about, what we're likely to be dealing
7 with, but ultimately you have just got to deal with
8 what's presented with you when you get there.

9 Q. So to what extent did you consider that the person you
10 were looking for that was in the vicinity of
11 Hayfield Road may have been a patient at one of the
12 hospitals, or have absconded from one of the hospitals?

13 A. It was a possibility.

14 Q. And whose -- was there any obligation or responsibility
15 on your part to raise that issue with the control room?

16 A. No.

17 Q. Did you raise that with Sergeant Maxwell to check if
18 anyone had absconded or ...?

19 A. No, because at that point it was just a possibility for
20 consideration.

21 Q. So something that you had in mind but not something that
22 you were aware of in terms of -- you hadn't heard that

1 anyone had absconded or any of that?

2 A. No, that's correct.

3 Q. And we have heard evidence about the control room in
4 Bilston Glen and how they don't have the same local
5 knowledge of areas as officers on the scene --

6 A. Mm-hm.

7 Q. -- or that work in the area, and that the control room
8 would have depended on information being fed back to
9 them about that type of thing. Were you aware of that,
10 that they didn't have that information, that type of
11 information?

12 A. No, they have got access to the same sort of maps as
13 here, that would pinpoint the location and let them see
14 what's round about it, and like I say, the hospital was
15 right in the middle of Kirkcaldy, so any call that's
16 in -- you know, a quarter of Kirkcaldy could be tied
17 back to -- or possibly could be from the hospital, so it
18 would be for every call you went to, you just wouldn't
19 pass that back until you had sort of a definite
20 confirmation.

21 Q. So it's always something you've got in mind because the
22 hospitals in Kirkcaldy are always close to places?

1 A. Yes.

2 Q. Now, to go back to your statement, if you don't mind,
3 you refer to the expression -- paragraph 8 I think we
4 were on, please. You refer to -- in the final line of
5 paragraph 8 "suicide-by-cop scenario". Can you explain
6 what you mean by that?

7 A. That was just to give it a name to try and describe it,
8 but basically somebody who wants the police there to --
9 to pick a fight with the police almost, or just --
10 somebody who might be wanting to harm themselves but do
11 it in the presence of the police. Basically, as I say,
12 it's kind of an American term, but aye, to get
13 the police there in the hope that they maybe get shot by
14 the police, by armed response or something like that,
15 you know, that's just -- that he was wanting the police
16 present for whatever. Again, it's just tying back to
17 the fact that he was maybe from the hospital and it was
18 make a psychiatric issue. It was just something to --

19 Q. And how common is that type of scenario, that
20 suicide-by-cop, in Kirkcaldy or in Scotland?

21 A. Not very.

22 Q. Not very.

1 A. No.

2 Q. Okay. So was there anything in particular about the
3 incident that you were going to attend that made you
4 think that it could be a suicide-by-cop scenario?

5 A. Just the overt nature. As I say, he was running about
6 with the big knife and that it was generating a lot of
7 calls. That was just the only thing, that he is wanting
8 police presence there.

9 Q. Did it have anything to do with the fact that the man
10 was black?

11 A. No.

12 Q. And if the man had been white, who had been attacking
13 vehicles with the knife, would you still have had that
14 thought pass through your mind about suicide-by-cop?

15 A. Anybody could suffer from a psychiatric episode.

16 Q. Can I ask you, what importance did you place on the fact
17 that it was early on a Sunday morning?

18 A. Just that it made it -- it was an unusual call for that
19 time of morning. Like I say, if you get people fighting
20 and that, it's usually nighttime and drinking time for
21 want of a better word, so I -- just it was -- the nature
22 of the call was just out of timing for what you would

1 normally see, you know, a disturbance with a knife you
2 would always put that sort of at nighttime.

3 Q. How common is it to have disturbances with a knife on
4 a Sunday morning, after 7.00 in the morning?

5 A. Unusual, I would say. It's no --

6 Q. When you say "unusual", can you help the Chair
7 understand what you mean by that?

8 A. I mean, I have not got access to the systems to sort of
9 provide numbers or anything like that, but like I say,
10 if somebody was to say to me "When would you expect
11 a disturbance call with a knife?" you would say "Outside
12 the pubs, drinking time", certainly not 7 o'clock on
13 a Sunday morning. I think that's reflected by
14 traditionally -- not so much now, but traditionally
15 Sunday morning was quiet time when you got to wash the
16 vans and catch up on paperwork and -- you know, Sunday
17 morning was downtime, for want of a better word.

18 Q. So because that was unusual, to have that type of call,
19 did that make you consider it more likely that it was
20 maybe something psychiatric or a mental health issue,
21 or ...?

22 A. You have just got to keep options open until you get

1 there. The worst thing you could do is basically make
2 your mind up before you get there, and then you can't
3 react to what you're dealt with, because you have
4 already made your mind up so ...

5 Q. And we have heard that there was a big boxing fight
6 going on in the early hours, I think it was in America,
7 but people were watching it in the early hours of the
8 Sunday morning. Was that something you were aware of?

9 A. No, I don't think it was.

10 Q. You don't think it was going on or --

11 A. I don't think I was aware of it.

12 Q. You weren't aware of it?

13 A. No.

14 Q. So you had not factored that into your understanding of
15 the circumstances or anything along those lines?

16 A. Yes, I hadn't factored that.

17 Q. Thank you. Sorry, that's poorly phrased by me.

18 And what consideration, if any, did you give to the
19 actual location in Hayfield Road? Did you -- were you
20 aware of that area?

21 A. Yes, I know -- I know the locus, yes.

22 Q. And is it -- how would you describe that street and that

1 area?

2 A. Hayfield Road is very long and it varies from -- there's
3 an industrial estate at one end, there's a section of
4 the street that's got houses on both sides, there's a
5 section of the street that's got hospitals on both
6 sides, and then there's a section of the street that's
7 quite open. Where the eventual locus is, that's quite
8 an open area with grass to the north and west.

9 Q. So other than maybe ambulances or traffic, is it
10 a reasonably quiet residential area, or am
11 I misrepresenting it?

12 A. No, it's one of the main routes through Kirkcaldy,
13 certainly Templehall and Hayfield is the main routes
14 through, so I would expect it to be fairly busy with --
15 one of the busier roads in Kirkcaldy. I wouldn't say
16 busy by the time of day but --

17 Q. And other than traffic, can you give an indication of
18 how busy it is in terms of the number of people that
19 might be in the area, not in cars?

20 A. It wouldn't be unusual to see people out walking dogs or
21 walking to and from the hospital, from Templehall into
22 the hospital area, it's not -- it wouldn't be unusual to

1 see somebody out walking about.

2 Q. And that would be the position at shortly after 7.00 in
3 the morning on a Sunday as well as other times?

4 A. Yes, to and from work, going for papers, et cetera, to
5 the shops.

6 Q. Can I ask you how often had you worked with PC Paton
7 previously? I don't need a specific number.

8 A. I honestly can't remember as to when -- we move teams
9 about -- people get moved within teams. I would say at
10 that time we were pretty set, that was me and Alan were
11 the van crew for that shift. As to how long that had
12 been for, I honestly can't remember.

13 Q. So that's Alan Paton?

14 A. Yes, yes.

15 Q. Thank you. And did it make any difference to you as you
16 were travelling towards the area that you knew the local
17 area and you were aware of it, or was that just
18 something you took for granted?

19 A. In what way, do you mean?

20 Q. Well, you were aware of the area, you were aware of the
21 hospitals, the open area at one end, the industrial
22 estate at the other?

1 A. Yes, well, I had worked in Kirkcaldy for ten years at
2 that point, I knew every nook and cranny of Kirkcaldy.

3 Q. Thank you. So by then you had been ten years in service
4 in that area?

5 A. Yes.

6 Q. Thank you. So it won't have been the first time you
7 attended incidents where there was an allegation of
8 someone with a knife?

9 A. Yes.

10 Q. It wasn't?

11 A. Yes, it wasn't.

12 Q. And you had ten years' experience at that time and we
13 have heard that all officers are trained with officer
14 safety training.

15 A. Yes.

16 Q. I'm sorry, I'm being passed a message that you are too
17 quietly spoken and you're going to have to speak up.

18 Could you pull the microphone just towards you slightly.

19 Thank you. They're not complaining about me in that
20 way, I have to say.

21 Had the -- you had police equipment with you at that
22 time?

- 1 A. (Nods).
- 2 Q. Now, tell me what equipment you had with you on the
3 journey to Hayfield Road.
- 4 A. On the journey there I had my handcuffs, police radio
5 and PAVA spray. I didn't have my baton, as was covered
6 in my statement.
- 7 Q. And you have explained in the statement that there had
8 been an issue with how -- the baton fitting on to your
9 uniform?
- 10 A. Yes, it had broken from the clip.
- 11 Q. Could you explain to the Chair the background to that,
12 please?
- 13 A. Yes, the baton basically goes into a baton holder that
14 has a plastic clip. The clip then fits into a plastic
15 clip that's on your vest.
- 16 Q. Could you stand up and then just point to the area where
17 you normally hold...
- 18 A. I would normally have my baton on that side for the
19 cross body draw (indicating).
- 20 Q. So that's on the left-hand side of your body?
- 21 A. Yes, yes, and basically at some point the week before
22 I've got out of the van, the seatbelt has wrapped round

1 my baton holder, and as I have walked away, it's twisted
2 it up and it's cracked the plastic mounting on the back,
3 so I have not been able to mount it on the vest.

4 Q. And so the baton remained in Kirkcaldy police office
5 that day?

6 A. Yes.

7 Q. You didn't have it on your uniform?

8 A. No.

9 Q. But as I understand your statement, you had never used
10 the baton in a knife incident before?

11 A. I had never used the baton full stop.

12 Q. Right. So did it make any difference to you that you
13 didn't have the baton that day? Were you concerned
14 about it, or conscious of the fact you didn't have it
15 with you?

16 A. No.

17 Q. And we could see -- because you stood up -- you're
18 actually 6 foot 4, is that right?

19 A. Yes.

20 Q. And in 2015, you were 25 stone?

21 A. Yes.

22 Q. And I won't ask you what weight you are today, but are

- 1 you less than that today or --
- 2 A. I'm heavier than that now.
- 3 Q. I think that's probably lockdown, isn't it?
- 4 A. Yes.
- 5 Q. Right, so you -- physically you're a tall man, strong.
- 6 Is that something that you use to your advantage as
- 7 a police officer when you're attending incidents?
- 8 A. I wouldn't say I use it to my advantage, but it does
- 9 come in handy. I prefer not to have to fight with
- 10 people if I don't have to. It reduces the risk to
- 11 myself, because like I say, all I'm interested in is
- 12 getting home to my family at the end of the day, so aye,
- 13 I'm no -- but aye, some people do sort of look at me and
- 14 maybe think twice.
- 15 Q. So that physical presence that you have when you turn up
- 16 at an incident, full uniform, with equipment, that can
- 17 have an impact on the people that see you?
- 18 A. Yes.
- 19 Q. And PC Paton, we have not seen him yet, he at that time
- 20 was an experienced officer of 14 years?
- 21 A. Yes.
- 22 Q. And he had also been trained, officer safety training?

- 1 A. He would have been, yes.
- 2 Q. And he had all his equipment with him as far as I'm
3 aware?
- 4 A. Yes, as far as I'm aware, yes.
- 5 Q. He is also 6 foot 4? Is he taller than you or shorter
6 than you?
- 7 A. He's about -- aye, about the same as me, but I couldn't
8 say if it he was exactly 6 foot 4 or not but yes, he's
9 tall.
- 10 Q. Okay, but he is tall like yourself?
- 11 A. Yes.
- 12 Q. And he was 17 stone?
- 13 A. He was proportionate build.
- 14 Q. So a bit lighter than you?
- 15 A. Yes.
- 16 Q. And what difference did it make to you and your approach
17 to know that the two of you were going and attending
18 together, all units were attending and there was the
19 possibility of an ARV and a dog unit being discussed on
20 the Airwaves? How did that make you feel as you were
21 approaching the incident? Did that reassure you, did it
22 make you feel confident, or did you remain concerned?

1 A. I remained concerned at the nature of what was being
2 passed, but it's never really anything I have taken into
3 consideration. Like I say, until you get there, you
4 cannot really make your mind up what you're doing
5 anyway, so it's probably something that I've never
6 really considered en route.

7 Q. And then can I ask you about the normal response to
8 knife incidents. Are all units ordinarily instructed to
9 attend knife incidents?

10 A. I think in this instance it was more a case of the fact
11 that it was an ongoing disturbance, it had been passed
12 as an ongoing disturbance. As I say, a lot of the times
13 you maybe get a fight where somebody thinks somebody
14 might have a weapon, but, as I say, because it was
15 confirmed that -- by multiple sources -- that this
16 gentleman was in possession of a knife and was believed
17 to be chasing people, I don't think there was anything
18 wrong with it on this occasion.

19 Q. So if it was a fight where people are actually in
20 a physical fight you would expect all units to go there
21 if it was an ongoing disturbance?

22 A. Yes, you would be looking for a -- aye, you would be

1 looking for numbers to turn up.

2 Q. Were you going to say back up or something there, or
3 reinforcements?

4 A. Yes, numbers to turn up so that you have back up when
5 you get there because sometimes when you've got a fight
6 ongoing like that, it's not just the two people that are
7 fighting, there's also the round about who you need to
8 try and keep an eye on as well so, aye, the more people
9 you've got there, the better.

10 Q. And do these incidents where a knife call has been made
11 and all officers are attending, do they normally involve
12 the use of CS or PAVA spray?

13 A. Depending on the actions of the people once you get
14 there, yes, but for a situation like that, PAVA or CS
15 is -- or certainly for myself -- the go-to piece of PPE
16 that I would use. For a baton -- I mean for a baton you
17 have to be within striking distance, whereas with PAVA
18 and CS you can be -- it's effective from something like
19 15 feet away, so it allows you to keep a greater
20 distance, whilst still having that bit of protection as
21 well.

22 Q. When you say that your spray is your go-to piece of

1 equipment, what do you mean by that?

2 A. For the likes of a knife crime -- when you need to try
3 and keep a distance from somebody but still have some
4 way of -- option of defending yourself, like I say it
5 all becomes -- you have to keep distance from a knife.
6 If they can't reach you with a knife, they can't stab
7 you with a knife, so keep distance with them and the
8 longest-range piece of defensive equipment that we have
9 is PAVA. That's the only one we could use from like
10 15 feet away, so, aye, for the likes of knife crime PAVA
11 (inaudible overspeaking) --

12 Q. And we have heard there is a difference between CS and
13 PAVA spray?

14 A. Yes.

15 Q. Can you explain that to the Chair briefly?

16 A. CS spray was what we were initially given with there
17 when we first started, or certainly when I first
18 started, and I think basically just through development
19 it's now being getting replaced with PAVA spray. At
20 that point they were getting replaced as and when your
21 CV spray expired, they have a shelf life. It reaches
22 the expiry, you get issued with a new one. Instead of

1 getting a CS, I was issued with PAVA as part of the
2 roll-out programme.

3 The main difference with the CS spray is -- they're
4 both in a liquid form inside the canister. When you
5 spray them it comes out as a stream. With CS spray you
6 could hit basically any part of the body but the CS
7 would then go up into a cloud, sort of vaporise into
8 a cloud and then it would get into people's eyes,
9 causing them to force their eyes closed, drop to their
10 knees and basically incapacitate them. PAVA was
11 slightly different in that it doesn't vaporise into
12 a cloud, and as a result you have to get direct contact
13 with the eyes with the spray, but the advantage to that
14 is with CS when it goes up into the cloud, anybody that
15 was in the room could be affected and then worst case
16 scenario was the person that you sprayed wasn't affected
17 and you were, so that's why it sort of progressed onto
18 PAVA with the hope that cross-contamination would be
19 less and that if you got a good contact with the person
20 that you sprayed, they would be incapacitated and
21 everybody else in the room would be fine.

22 Q. And just to complete this, in the cases where you have

1 attended knife incidents, how often had you used your
2 spray at that time?

3 A. I think in my --

4 Q. Up to 2015?

5 A. I think I had only ever used spray on two or three
6 occasions, and I can't recall which ones would be knife
7 incidents or which ones were just violence, when you're
8 struggling to get control of somebody.

9 Q. So in your entire ten years, you had used spray two or
10 three times?

11 A. In my entire 18 or 17 years I've used spray two or three
12 times.

13 Q. And one of them was Hayfield Road?

14 A. Yes.

15 Q. Do you remember the other two?

16 A. We had -- we were arresting someone. We were arresting
17 somebody and they were in their bedroom. We were aware
18 before we went that he had firearms markers, which means
19 he might have access to a gun.

20 Q. A weapon, okay.

21 A. As I say, we went to arrest him, we went into the
22 bedroom where there was lots of cupboards and drawers

1 and whatever and then he basically just started to fight
2 with us at that point. He made a lunge towards one of
3 the drawers and he was sprayed to incapacitate him.

4 Q. And the other?

5 A. It was a fight outside a nightclub in Kirkcaldy where it
6 was myself and a colleague and we were quite
7 outnumbered. We had a gentleman who was being violent
8 towards us, really quite violent, and he was sprayed to
9 bring the situation under control quite quickly, to stop
10 it escalating to the point where other people would then
11 get involved and from an officer safety point he was
12 sprayed for that one.

13 Q. Can you describe the violence: you said it was really
14 quite violent. What does that mean?

15 A. Just that we were struggling -- we couldn't get control
16 of him. Every time you put hands on him he was lashing
17 out and getting away from you. I can't remember the
18 exact ins or outs of it, but the decision I made to
19 spray at that point was because we were struggling to
20 get control of him, he was being violent towards us and
21 that we were -- there was no back up available and
22 obviously the numbers -- the crowds that were there as

1 well, we had to get that situation under control
2 quickly.

3 Q. Was he physically assaulting you?

4 A. Yes, aye, yes.

5 Q. Can I ask you one last question before I speak to the

6 Chair. What do you do in the cases where you're

7 attending a knife incident but you don't use your spray?

8 How do you deal with those? What makes you avoid using
9 the spray in those situations?

10 A. Communication. When you turn up and somebody's -- like

11 I say, you can't pre-judge a situation, so a lot of the

12 times you were getting fights where people are saying

13 "We might have a seen a knife", "he might have

14 something", so you turn up and if somebody is calm and

15 communicating with you, you can say "Look, somebody said

16 that you have a knife on you, is that the case?" "Aye",

17 or "no", or "Aye, I've got this". "Go and just put that

18 down there then, keep your hands where I can see them

19 and there will be a quick search to make sure you've got

20 nothing else on you that's likely to harm me and my

21 colleagues".

22 MS GRAHAME: I will come on to other questions in a moment.

1 Would it be your wish to have a break?

2 LORD BRACADALE: Yes, very well, thank you. We'll have
3 a 15-minute break, please.

4 (11.34 am)

5 (Short Break)

6 (11.53 am)

7 LORD BRACADALE: Ms Grahame.

8 MS GRAHAME: Thank you.

9 Constable Walker, when we were discussing the baton
10 and the broken clip, you said that it happened the week
11 before and then you went out that day without your
12 baton, and there's a question about whether you would be
13 considered operationally deployable without a baton. Do
14 you want to say anything about that?

15 A. Just that I -- I wasn't aware -- or I'm not aware of any
16 reason why that wouldn't be the case.

17 Q. So if that's the case, you weren't aware of any issue
18 with going out that day without your baton?

19 A. No.

20 Q. And can I ask you in relation to paragraph 3 of this
21 statement -- so this is the statement that we looked at
22 before and if I can have paragraph 23, sorry, 23, on the

1 screen. This is the one where you said you had
2 considered using the vehicle to strike the male should
3 you deem the risk to the public and officers to be too
4 high. Do you want to say anything about that paragraph?

5 A. That was a --

6 Q. Is that an option that you're taught, that you can
7 strike someone with a vehicle?

8 A. If there's an immediate risk to life then basically
9 anything to preserve life is possible.

10 Q. So it's your understanding that including hitting
11 a person with a police van would be acceptable if
12 there's an immediate risk to life?

13 A. Yes.

14 Q. And what would an immediate risk to life be, in your
15 mind?

16 A. If we turned up and he was directly behind someone
17 brandishing the knife, about to stab them. In order to
18 save someone's life -- I mean I'm not talking about if
19 we're in the van and striking him at 60 miles an hour,
20 you know; enough to move him away.

21 Q. So self-defence really, or the defence of another
22 person?

1 A. The defence of another person, yes.

2 Q. Is that something that you were scared might happen,
3 that you might be put in that situation?

4 A. Yes, it was just another one of the options that --
5 considered on the route up. Obviously just given the
6 nature of the call, the large knife, the fact that it
7 was passed that he was chasing people, aye.

8 Q. But in all your years' service have you ever been put in
9 that position where you would need to consider this as
10 an option?

11 A. I haven't had to resort to that, no.

12 Q. Can I look at, again, PIRC 264, which is the statement
13 you gave to the PIRC on 4 June, and I would like to look
14 at page 4 and paragraph 4. Sorry, I can't see which one
15 is the fourth paragraph. Give me a second. Right. The
16 fourth paragraph is the one starting:

17 "As we were passing the old Forth Park Hospital ..."

18 So that's in the middle of the screen. Is that
19 another hospital nearby? Is that closed now?

20 A. That's closed now, yes. It was the maternity hospital.

21 Q. And:

22 "While still on Hendry Road I remember getting

1 a fuller description of this male, either I heard it
2 over the radio or PC Paton reiterated what he heard on
3 the radio. The description was a black male, muscular
4 build, white T-shirt, blue jeans, in possession of
5 a knife, appeared to be under the influence of
6 a substance and was running out into the roadway
7 attacking passing vehicles."

8 Now, it's the reference to "appeared to be under the
9 influence of a substance". We looked at the Airwaves
10 transmissions earlier and there didn't seem to be any
11 reference to him being under the influence of
12 a substance. Could you just have misremembered that
13 information?

14 A. Yes, the statement was prepared after the event, so it's
15 possible that I have merged memories.

16 Q. Right. Can I ask you about 264, page 4, so it's the
17 same statement, page 4, paragraph 7, which is the second
18 last statement on that page and it begins "During the
19 journey to Hayfield Road ..." and then towards the end
20 of that, halfway through it really:

21 "It did cross my mind that he was doing this to get
22 the police there. Bearing in mind we are on a 'severe

1 threat level' for an attack on the police."

2 And then you go on to mention the Whytemans Brae.

3 Tell me what you meant when you wrote that "We're on
4 a 'severe threat level' for an attack on the police"?

5 A. That's the --

6 Q. Sorry, you didn't write that, that's the PIRC statement.

7 A. Yes. There is -- at the time the terror threat to
8 the police was severe and that an attack on the police
9 was highly likely and, like I say, my initial concern
10 was the overt nature of what he was doing, maybe he was
11 looking for the police to get there, so I just was
12 joining the dots for possibilities as to what we might
13 be dealing with, but I had to bear in mind that there
14 was intelligence that some person or group of people
15 were looking to cause harm to the police.

16 Q. And what impact did that awareness and that knowledge
17 have on your state of mind as you were travelling to
18 Hayfield Road?

19 A. Again, it was just another scenario to be mindful of,
20 but ultimately you can't -- you can only deal with what
21 you get when you get there, but it was something to be
22 aware of.

1 Q. And would you have had the same concern if the man had
2 been white?

3 A. Yes. The -- I mean the threat was -- it was an attack
4 on the police, so that was just something to be aware
5 of.

6 Q. And the severe threat level, is that also something
7 that's connected to potential terrorist incidents?

8 A. Yes.

9 Q. And is that something that you had in mind en route to
10 Hayfield Road?

11 A. It was on my mind that there was intelligence that there
12 was harm going -- or there was potentially someone
13 looking to cause harm to the police and that was highly
14 likely.

15 Q. And in that knowledge, was it a -- was that something
16 that was of concern to you, knowing that all units had
17 been requested to attend and there may be some need for
18 an ARV or a dog unit?

19 A. No, again, I think that was -- the all units, that came
20 back to the initial that there's a male in possession of
21 a knife who is chasing members of the public. It was
22 the risk -- the risk to life at that point.

1 Q. So your impression was that he was chasing members of
2 the public at that time?

3 A. Yes. That's certainly -- that was my belief at the time
4 that he was chasing someone and that it was an active
5 ongoing disturbance.

6 Q. Did you at any time contact the ACR or make
7 a transmission on the Airwaves in relation to your
8 concerns about the severe threat level and the risk to
9 harm to the police?

10 A. No, that's something that everybody in the police is
11 aware of.

12 Q. Right. And then could we look at PIRC 265, please, this
13 is your self-penned statement, and if we could look at
14 page 2, paragraph 2. Now I'm going to ask you about
15 line 16, but really it's in connection with a comment
16 you make about it being a possible hoax, and I just
17 wondered -- you have not mentioned that to us
18 previously. Could you explain what you meant when you
19 said it was a possible hoax?

20 A. Just because of the severity of the incident when the
21 first one was passed, and then it was followed up by
22 a second call with a different locus, which is on

1 a different part of Kirkcaldy, it did cross your mind
2 for a second that someone just wanted the force to be
3 driving all around Kirkcaldy at this point.

4 Q. So that's what you mean by a hoax or a hoax call?

5 A. Aye, aye.

6 Q. Thank you. So was it possible, had it been a hoax call,
7 you would have turned up to the Hayfield Road, to the
8 area and not seen anything there?

9 A. Yes.

10 Q. Can we go on to paragraph 10, please, for a moment, of
11 your Inquiry statement, and I would like to ask you now
12 about an Airwave transmission when you arrived at the
13 scene. So paragraph 10 you have said you have been
14 asked about the Airwaves call made at 7.20.13 on the day
15 and:

16 "I was not aware of this radio transmission and have
17 no recollection of hearing it. Going by the radio logs
18 and timings thereon, Inspector Stewart makes his
19 broadcast after we arrived at the scene and were dealing
20 with the situation."

21 I would like to ask you about this. You will see
22 the transcript in the spreadsheet at 7.20.13. That is

1 on page 3 of the spreadsheet, about a third of the way
2 down. We could play this footage, so it's from
3 7.20.13 -- Ms Wildgoose will play it, but she may have
4 to go slightly earlier just to make sure that we get the
5 full thing in. So the real time clock says 7.20.11 so
6 it is two seconds before it starts, so it should be
7 pretty quickly on and then we will just stop after that,
8 thank you. But you can read it on page 3 of the
9 spreadsheet as well.

10 (Video played)

11 Thank you. Now, you said in your statement you
12 didn't hear that transmission. Hearing it now, what is
13 your understanding of that transmission? So he is
14 saying he is:

15 "... monitoring it from an ARV perspective. If you
16 get sightings of the male you need to make an initial
17 assessment yourself and feedback through straight away."

18 And he will listen out on the channel. So that's
19 what he says.

20 A. Mm-hm.

21 Q. What's your understanding of that transmission? Do you
22 understand that he was expecting you to make an initial

1 assessment yourself?

2 A. Yes.

3 Q. And to feedback to control room straight away?

4 A. He is requesting for -- in respect to an ARV he is
5 requesting for that to be passed back, yes.

6 Q. Yes. And that he is going to listen out on
7 the channel --

8 A. Yes.

9 Q. -- for that information. And can you explain what your
10 understanding is of an initial assessment?

11 A. It's like I said before, you can't pre-judge
12 a situation, so when you get there what are you
13 presented with and make an assessment based on that: is
14 it safe, is there immediate threat to anybody else. And
15 then use the tools that are available to you.

16 Q. And we have heard the expression "Dynamic risk
17 assessment"; would that be the sort of thing that you
18 would understand as well?

19 A. Yes.

20 Q. So an initial assessment is really a risk assessment or
21 a dynamic risk assessment?

22 A. Yes.

1 Q. And when he said "Feedback through straight away", what
2 was your -- what's your understanding of what feedback
3 is?

4 A. Again, that would be what are you presented with. He
5 would be looking for that to be passed back but, as
6 I say, I think that would be more in relation to an ARV,
7 if he was still in possession of the knife, if he was
8 still brandishing the knife, "We need an ARV here and
9 this is the reasons why". That would be my
10 understanding of that.

11 Q. So feedback would be you contacting the control room to
12 let them know what the position was in terms of your
13 initial assessment?

14 A. Yes, for additional resources. I don't think I have
15 ever went on the radio to confirm that something's not
16 required, if that makes sense, because the ARV wasn't
17 coming at that point, as far as I was aware, so
18 I wouldn't go back on the radio to confirm that the ARV
19 wasn't required and that it wasn't coming.

20 Q. So it would only be if you wanted the ARV to come that
21 you would have fed back?

22 A. Yes. I have turned up, there's immediate -- we have not

1 gone near him, the situation is too dangerous, we need
2 an ARV, we need a dog.

3 Q. Right. And we have heard that the inspector in the
4 control room was the one with the authority to deploy or
5 send out the ARV?

6 A. Mm-hm.

7 Q. But others wouldn't have that authority in the police to
8 do that, so he was the one that would need to be
9 authorising it?

10 A. He would have the final say, yes.

11 Q. Sorry, I spoke over you there.

12 A. No, sorry, that he would have the final say.

13 Q. He would have the final say.

14 A. Yes.

15 Q. And it was within his authority to tell ARV to come to
16 Hayfield Road?

17 A. Yes.

18 Q. So I would now like to replay what we can see on the
19 screen from 7.20.13, so Ms Wildgoose will go back to
20 that, and I'm just going to ask Ms Wildgoose to
21 basically play a 10-second segment. It might not be
22 exactly 10 seconds, but you will see in fact at

1 the moment that the real time clock says 7.20.12, and
2 I would like to play basically from 7.20.13 to 7.20.23,
3 so it's a very short period of time, and that's --
4 7.20.13 is when the call from Inspector Stewart, or the
5 Airwaves transmission from Inspector Stewart is being
6 made, or being given over the Airwaves, and that's what
7 we have just listened to, and you will see on the
8 spreadsheet that that's there and then to the right of
9 that column there are some descriptions of what's also
10 going on at the same time on the CCTV.

11 So you're going to have to multi-task here,
12 Constable. As you watch the screen we will play that
13 10-second clip but I would like you to focus your
14 attention first of all -- sorry, I'm giving you the
15 wrong times here.

16 Let's play this, first of all, from 7.20.13 to
17 7.20.23, and we will play that first, if that's okay.

18 Thank you.

19 (Video played)

20 Let's pause that. So we have just gone over
21 a couple of seconds. Did you see the van coming into
22 the CCTV there?

- 1 A. I did, yes.
- 2 Q. And was that your van?
- 3 A. It is, yes.
- 4 Q. So that's your van that we have just watched driving up
5 Hendry Road and turning right at the roundabout into
6 Hayfield Road?
- 7 A. Yes.
- 8 Q. You were driving?
- 9 A. I was.
- 10 Q. And PC Paton is in the front passenger seat?
- 11 A. Correct.
- 12 Q. And you presumably secure the handbrake when you arrive
13 and stop the vehicle?
- 14 A. Yes.
- 15 Q. And then, as I understand your statement, PC Paton is
16 the first to get out, and then you get out a few seconds
17 later?
- 18 A. Yes.
- 19 Q. You have told us that you had a radio in the van and
20 a radio on your shoulder, there's no siren and it's
21 a Sunday morning, you have talked about that.
22 Can you explain, or would you like to try to explain

1 to the Chair, why you wouldn't hear that transmission
2 from Inspector Stewart? So in fairness to you, his
3 transmission begins at 7.20.13, but it doesn't end until
4 7.20.30, so it takes -- we have heard the accuracy of
5 this is to within one second, but it takes around
6 7 seconds for that entire message to be completed over
7 the Airwaves.

8 A. Mm-hm.

9 Q. Sorry, 17, my arithmetic is failing me today.

10 So that is from 7.20.13 to 7.20.30. 17 seconds.

11 Can you explain to the Chair why you didn't hear it?

12 A. Just before that PC Paton passes on the radio that
13 that's us approaching Hayfield Road and I could remember
14 us discussing, or at that point trying to work out where
15 the male was "Can you see him? Where is he about? Is
16 he at Gallaghers? Where was the last sighting",
17 because, as I say, Hayfield Road is quite long, we were
18 told -- I can't remember exactly what was passed but
19 there was mention obviously of the public house as well,
20 so checking both sides of the road, speaking to each
21 other, communicating, and then as we approached, I can't
22 remember exactly where it was, coming up Hendry Road, we

1 got sight of him across the hedge and we were like
2 "There, there he is over there", and that's why we
3 turned the corner and drove towards him, so we were
4 having discussions in the van at that point to try and
5 locate this male, so, yeah, that's why the radio was
6 missed.

7 Q. So we saw your van coming up on the CCTV at the bottom
8 of the screen, from the right-hand side on Hendry Road.

9 A. Mm-hm.

10 Q. Driving up and turning right into Hayfield. Can you see
11 the hedge that you have just mentioned on the CCTV?

12 A. Yes.

13 Q. Would you point to that, please?

14 A. That's the hedge where it runs along there.

15 Q. Right, so that's just between the houses that we can see
16 on the right-hand side and the road, Hendry Road?

17 A. Yes.

18 Q. And you could see the man over that hedge in
19 Hayfield Road, is that what you just said?

20 A. Yes, you've got a raised seating position in the van
21 that we were able to see -- I can't remember if we could
22 see the full gentleman or how much of him but we could

1 see, but we were aware that there's somebody over there,
2 that must be him.

3 Q. And there was a discussion going on in the van between
4 you and PC Paton?

5 A. Yes, just basically trying to look for him: "he was last
6 seen there", "Is he heading up there?", "Is he up
7 Templehall Avenue?","Has he crossed over that bit or
8 not?", "Maybe he is round there."

9 Q. Okay. But in any event, when you got out of the van --
10 so you parked the van and you get out and, first of all,
11 maybe we should look also at the reconstruction tile on
12 this screen. You will see that at this moment in time,
13 7.20.25, on the reconstruction tile there's a white van
14 displaying on the reconstruction tile and is that
15 roughly where you were parking in Hayfield Road on that
16 day?

17 A. In my statement that I drew I think I put it a bit
18 closer to the pavement, but if that's been taken from
19 the CCTV, I have no reason to argue about what's been
20 presented here.

21 Q. These -- we did hear in fairness to you from ALI that
22 these are indicative positions. They indicate where --

1 what they have gathered from the CCTV, so you think you
2 were a little bit closer?

3 A. I'm happy to be corrected on that because like the
4 Snapchat footage shows the exact location where the
5 vehicle stopped which I believe this has been taken
6 from.

7 Q. Maybe we could -- just to be clear, maybe we should just
8 rewind slightly, Ms Wildgoose, and play the entire part
9 of that.

10 (Video played)

11 Thank you. Do you think that your vehicle was
12 actually closer to the bus stop, or inside the bus stop
13 yellow lines?

14 A. Just from memory and what I provided in relation to the
15 statement, the original photo you showed this morning,
16 I've got pretty much against the pavement, so like I've
17 sort of driven forward another couple of hundred --
18 well --

19 Q. So within the actual bus stop area?

20 A. Within the -- yes, yes, but like I said, that was just
21 recollection without seeing footage, et cetera, so I'm
22 happy to go with this as being more accurate.

1 Q. Thank you. In the normal course of events though, you
2 understood that when you arrived you were to carry out
3 an initial assessment?

4 A. Yes.

5 Q. Or a dynamic risk assessment, yes? And did you
6 understand that that was information that you should
7 feed back to the control room.

8 A. Like I say, that would only be -- we never heard that
9 message, so as far as I'm concerned like the ACR
10 inspector wasn't aware of the call, he had no
11 involvement in the call at that point.

12 Q. So if we could go back slightly on the spreadsheet to
13 page 2, we know that Control 1 and Control 2 had been on
14 the Airwaves transmissions at 7.19.17 and 7.19.23, but
15 are you making a distinction between them being on the
16 Airwaves and the duty officer --

17 A. Yes.

18 Q. -- who was in charge. You are?

19 A. Yes, yes.

20 Q. What distinction does that make to you? What difference
21 does that make to you, if the contact from the control
22 room is not from the duty officer?

1 A. That's ... just that the inspector is not -- I'm not
2 sure what you mean.

3 Q. Well, we can see that there's been contact and
4 communication from the control room because of the
5 contact with Con 1 and Con 2, so both of them have been
6 on Airwaves transmitting.

7 A. Yes.

8 Q. But what difference did it make to you that the duty
9 officer, Inspector Stewart, hadn't been on? You have
10 obviously said you didn't hear him coming on at 7.20.13,
11 but what difference did it make that the duty officer
12 wasn't actually making transmissions on the Airwaves?
13 Did it make any difference to you?

14 A. Not that I could -- no, I wouldn't say so.

15 Q. Does it make any difference who speaks to you from the
16 control room on the Airwaves transmission?

17 A. I mean ultimately it's an expectation for us to turn up
18 and deal with the call, so we deal with it as we can.
19 If we need something else there, then we will request
20 it. Although it's up to him to authorise, it would be
21 up to us to request also, saying "We have turned up
22 here, we can't deal with this". Like I say, you could

1 spend all day passing back updates that are of no use.

2 Q. So did you have any understanding at that time that
3 there was any obligation on you to contact the control
4 room, or did you feel that was a sort of for your own
5 discretion?

6 A. No, I would say the obligation on me at that point was
7 to protect life and to enforce the law, which is we
8 turned up, assessed the situation and tried to deal with
9 it.

10 Q. So you didn't understand that there was any obligation
11 for you to be in touch with the control room and tell
12 them what was happening?

13 A. Not unless like it was for -- to direct to other units,
14 ie if we turned up and he had seen our van and
15 immediately started running off in a different
16 direction, there would be an update passed that: he is
17 making off from us, he is in this direction, can we get
18 other units to attend, but to coordinate our response to
19 it.

20 Q. Or if you wanted an ARV or you wanted a dog?

21 A. Aye: it's beyond our capabilities, we can't deal with
22 this, we're not confident in dealing with this, we're

1 needing additional specialist resources here.

2 Q. So you would contact control if you wanted an ARV, a dog
3 unit, or you wanted other units maybe to locate somebody
4 if he had run off?

5 A. You would pass that over, not necessarily through
6 control, you would just come on the radio and just say
7 to units attending "He is making off in this direction",
8 and coordinate units -- you don't have to pass
9 everything via control. They are monitoring, they will
10 be updating things as you go. They will be updating the
11 log, as we have heard, with radio transmissions and
12 that, but on the whole, you turn up to deal with it as
13 best you can and anything that needs to be passed over
14 the radio will be passed over the radio.

15 Q. So by sharing things on the Airwaves through the radio,
16 that's also going to all your other colleagues who may
17 be attending?

18 A. Yes.

19 Q. And they're more of a priority, as far as you're
20 concerned, than speaking to the control?

21 A. It's more of a priority to pass, like I say, what you
22 need as opposed to passing what you don't need.

1 Q. Can I ask you to look -- we will leave this for one
2 moment, but we will come back to it. I would like you
3 to look at paragraph 11 of your statement. This is your
4 Inquiry statement. You say there:

5 "As soon as we got out of the vehicle, the situation
6 developed so quickly, there was no time to step back and
7 pass back a situation report to the control room. In
8 any event, there was no new information to pass which
9 would have added to what was already broadcast."

10 I would like to ask you some questions about where
11 you say there was no time. So you have described
12 arriving and the area. Were there any members of the
13 public in the area at that time, other than the man you
14 were looking for?

15 A. On foot, no, not that I'm aware of.

16 Q. And when you arrived he -- am I correct in saying from
17 your statement he wasn't striking cars at that time with
18 his knife?

19 A. No, that's correct.

20 Q. And he wasn't acting aggressively at that stage?

21 A. Correct.

22 Q. And you couldn't see the knife at that time?

1 A. Correct.

2 Q. And I wonder if you could help the Chair understand what
3 you mean then when you say there was no time to step
4 back and pass back a situation report to the control
5 room? What meant there was no time to step back?

6 A. That we'd arrived, we had got around the corner, he was
7 there in front of us, and the situation we were
8 presented with we felt that we could deal with, take
9 advantage of the fact that he didn't appear to be
10 visibly in possession of the knife and get control of
11 the male as soon as possible.

12 Q. So your priority was to get control of the male?

13 A. Yes.

14 Q. And was there anything stopping you at that stage from
15 observing from a distance, so parking the van somewhere
16 else, observing what was happening and reporting back to
17 control or making messages on the Airwaves?

18 A. I don't see what the advantage would have been to that.

19 Q. Well, we may have some evidence that suggests good
20 communication helps officers to avoid escalating
21 situations and ending up restraining someone.

22 A. Mm-hm.

1 Q. So I suppose we may hear evidence that the advantage is
2 if you take time is it allows you to communicate more
3 effectively with the person that you're talking to?

4 A. Mm-hm.

5 Q. And I'm just wondering what would have stopped you at
6 that stage from parking a little bit further away and
7 observing matters for a few seconds, ten seconds, or
8 a few minutes?

9 A. The risk to the public that had been passed. I mean
10 there's nothing -- although there's nobody present at
11 the time when we arrived, there's a row of houses on one
12 side, there's passing vehicles, I mean just -- just
13 because he wasn't doing nothing there I don't think it
14 would reflect too well on the police if we just parked
15 up and watched him and somebody came out of their house
16 and he attacked that person whilst we were parked up
17 watching that harm. It makes much more sense to take
18 advantage of the fact that he doesn't appear to be in
19 possession of the knife at that point, approach him, try
20 and communicate with him and then bring him into
21 custody.

22 Q. So the approach you took was partly as a pre-emptive act

1 to avoid a situation developing where a member of the
2 public came into the area and maybe the situation got
3 worse?

4 A. Yes.

5 Q. So it was in anticipation of something going wrong,
6 rather than something at the scene at that moment? It
7 was concern for the risk becoming greater?

8 A. Yes, because the scene could change at any moment. Just
9 because we never seen anybody doesn't mean to say there
10 wasn't somebody walking through the path behind the
11 trees or -- ultimately because the report was passed
12 that he was brandishing -- well, in possession of
13 a knife, chasing after people, so he has to be brought
14 under control.

15 Q. But at that time, could you see anybody moving around
16 other than the man?

17 A. I was just aware of him being there.

18 Q. So in terms of assessing that risk of a member of the
19 public emerging from somewhere and being at risk, did
20 you consider waiting to see whether that was a real
21 risk, or just a hypothetical risk?

22 A. Well, again, you could wait until it becomes a risk and

1 by that point it's too late. That's a dangerous game to
2 play.

3 Q. Okay. And is that your experience, that you don't want
4 to wait for things?

5 A. If you could get somebody under control then, aye,
6 I don't see why you would put other people at risk just
7 so you could observe. People are phoning the police
8 because they're looking for this danger to be removed.

9 Q. And if the control room, or Sergeant Maxwell, had come
10 onto the Airwaves transmission at that time saying
11 "Provide feedback, give me an update", or something
12 along those lines, is that something that you would have
13 waited to give, or were you keen to take control
14 straight away?

15 A. I would say that I was happy to go in and try and take
16 control in the situation and neutralise any risk.

17 Q. Thank you. Now, we may have heard some evidence -- you
18 have maybe listened to it -- that for officers who are
19 attending a scene where there has been calls and someone
20 is said to have a knife, that it is an option for
21 officers to pause and assess the circumstances and
22 observe the person, see if they are in possession of

1 a knife, see if members of the public are around, and
2 then provide updated or new information about the events
3 on the transmission -- on the Airwaves which the control
4 room could hear, so when you saw the man, you didn't see
5 a knife, he wasn't attacking cars, did you consider at
6 that point it was appropriate to share that information
7 with the control room or on the Airwaves transmission,
8 because that was new information about him not having
9 a knife visible and he wasn't attacking cars?

10 A. No. I decided that it would be a good opportunity to
11 approach him and try and communicate with him and bring
12 him under control.

13 Q. Can we look at your self-penned statement, please, 265,
14 and page 3, please, Ms Wildgoose, and it is about
15 halfway down page 3.

16 There's a sentence -- it's again the paragraphs
17 aren't very clearly defined, but it is around halfway
18 down the page on the screen:

19 "As the vehicle came to a stop ..."

20 Do you see that?

21 A. Mm-hm.

22 Q. "... PC Paton drew his CS spray and exited the vehicle.

1 A few seconds later, after securing the handbrake,
2 I drew my PAVA spray and also exited the vehicle."

3 So Paton, before he exited the vehicle, had his
4 spray and you had your spray in your hand before you
5 exited the vehicle.

6 A. Yes.

7 Q. And that was a few seconds after PC Paton --

8 A. Yes, aye.

9 Q. -- that you exited? So you were actually in the vehicle
10 a few seconds longer than PC Paton?

11 A. Yes, to secure the handbrake, turn the ignition off,
12 secure the keys.

13 Q. Because you were driving?

14 A. Yes.

15 Q. Do you wear your seatbelts in police vans?

16 A. Yes.

17 Q. Yes.

18 A. Hence the recent broken baton.

19 Q. Oh, of course, yes, sorry, you did say that.

20 I would like to go back to the -- sorry. We have
21 heard some evidence about something called the National
22 Decision-Making Model and I would like to ask you

1 a little bit more about that. Have you heard of that?

2 A. Yes.

3 Q. As I understand it, all police officers are trained in
4 that, is that correct?

5 A. Yes.

6 Q. Could we maybe have a look at PS 13182, please. We have
7 a diagram on page 3 and this might assist you to explain
8 it. Could you tell the Chair how you understand the
9 National Decision-Making Model works.

10 A. It's just a way -- basically a way of describing the
11 thought processes that you go through when you're
12 dealing with an incident, so like as I say, as we're
13 approaching, gathering information and intelligence is
14 covering the facts that there's hospitals nearby, all
15 the possible scenarios that there could be. Assess the
16 threat, you know, he's got a knife, there's a threat to
17 us, there's a threat to members of the public. Powers
18 and policies, he has to come -- he has committed crimes
19 at this point, he needs to come into police custody and
20 we have also got a duty to protect members of the
21 public, so the options we've got -- I mean I covered
22 them earlier where we were talking to him, up to as

1 severe as striking him with the vehicle if need be, and
2 then again, you have -- because it's cyclical you then
3 go back into that, so at that point we hadn't taken any
4 action or reviewed, but that's more if you try something
5 that doesn't work. For instance, if you strike somebody
6 with a baton or use PAVA spray, that's ineffective, you
7 then go back into the circle again and you could run
8 through that circle many, many, many times in an
9 incident where the information again changes and ...

10 Q. So on the journey there you're gathering information
11 from the Airwaves transmission and also you're adding
12 into that your local knowledge and we have talked about
13 that this morning, and then you are assessing the threat
14 and developing a strategy, talking about options with
15 PC Paton. You're considering what powers you have and
16 identifying options, but when you get to the scene, is
17 that an opportunity for you to then go back to the top
18 there and gather more information and intelligence and
19 see what's happening at the scene?

20 A. Yes, which is what we did -- what we done. The male
21 wasn't in possession of the knife, he appeared to be
22 reasonably calm on the pavement, so we then assessed the

- 1 threat and decided to go and speak with him.
- 2 Q. And the cycle starts again?
- 3 A. And the cycle starts again. That's a never-ending cycle
- 4 when you're dealing with a call.
- 5 Q. And is why it is dynamic, because as new information
- 6 comes in, that then triggers that process again?
- 7 A. Yes.
- 8 Q. So it's not something that you start and finish; it's
- 9 ongoing?
- 10 A. Yes, yes.
- 11 Q. Constantly evolving?
- 12 A. Yes.
- 13 Q. Depending on whether you've got new information coming
- 14 in, you factor that in and review your approach?
- 15 A. For us, yes.
- 16 Q. Thank you. And when you arrived at the scene in
- 17 Hayfield Road, did you carry out that dynamic risk
- 18 assessment at the scene?
- 19 A. When we were presented with eyes on the male, yes.
- 20 Q. Eyes on the male. So you have described what you saw
- 21 when you first arrived and he has not got a weapon, he
- 22 is not acting aggressively or striking vehicles at that

1 stage, so can you explain what risk you considered he
2 posed to you and Officer Paton at that time?

3 A. He is still a high risk individual. We have no reason
4 to doubt that he has had or still has possession of
5 a knife, just because we can't see it, and then
6 obviously we're looking at the fact that his body
7 language, et cetera, is he aggressive, is he fighting
8 with people and so the intelligence -- the information
9 that we got at that point was he wasn't actively in
10 possession of a knife, for want of a better word, it
11 wasn't in his hand, so that increases the reaction time
12 for dealing with him, if he does have a knife he needs
13 to retrieve it from somewhere first, and he appeared to
14 be walking along the road in a calm-ish manner. He was
15 walking with purpose, a bit of speed and determination.
16 He wasn't shouting, raised voices, he wasn't -- he
17 didn't appear to be overly angry with the world.

18 Q. Right. You have given me a lot of information there;
19 can I ask you some questions about that.

20 A. Yes.

21 Q. So you can't see a knife at that stage, but --

22 A. He doesn't have one in his hand, yes.

1 Q. He didn't have one in his hand. You couldn't see it as
2 you approached him?

3 A. Mm-hm.

4 Q. But he could have had that hidden somewhere, or
5 concealed somewhere?

6 A. Yes, in his belt loops at the back or in his jeans.

7 Q. So as a police officer, you're still aware of that
8 possibility?

9 A. Yes, again, just because of the number of calls that
10 came in all reporting the same thing, there was no
11 reason to doubt that he had a knife, or had access to
12 a knife at that point.

13 Q. And you're looking at his body language?

14 A. (Nods).

15 Q. And it's not aggressive at that time, you have said?

16 A. No.

17 Q. And you then mentioned something about an increased
18 reaction time. Can you explain what that means?

19 A. Basically it's to do with the distances, so if -- as
20 I say, if somebody has possession of a knife and they
21 decide to stab you, or lash out at you --

22 Q. That's in their hand?

1 A. In their hand, yes -- it's obviously a lot quicker to go
2 and stab you than it is to retrieve it from behind their
3 back, that's when you know to back away, so you've got
4 an extra --

5 Q. This is a warning for you?

6 A. Yes, aye. So if they have not actually got it in their
7 hands, then there is that -- it increases your reaction
8 time.

9 Q. So it increases the time you have available to react to
10 any threat?

11 A. Yes, yes.

12 Q. So because it's not in the person's hand, you've got
13 a little bit of extra time?

14 A. Yes.

15 Q. And then you said he was walking in a calm way but with
16 purpose?

17 A. Yes.

18 Q. Describe what you mean by that?

19 A. The best way to describe it would be if he was running
20 late for a bus and he was trying to get there, had some
21 place to go and needed to be there for a certain time
22 and he was running short on time. He was walking with

- 1 purpose and a bit of speed.
- 2 Q. So he was walking, not running?
- 3 A. Yes.
- 4 Q. But he wasn't dawdling?
- 5 A. No, he wasn't out for a Sunday morning stroll.
- 6 Q. Right. And then you say no shouting, no raised voices,
- 7 so he wasn't saying anything at that time or shouting
- 8 anything?
- 9 A. No.
- 10 Q. And you thought he was not overly angry?
- 11 A. Yes, because he wasn't shouting or pointing in anybody's
- 12 direction or arms weren't up in the air which are all
- 13 sort of warning signs when somebody is at a level of
- 14 aggression.
- 15 Q. So was there anything at that point when you first saw
- 16 him that indicated to you he was angry or in a bad mood?
- 17 A. No, nothing that would -- nothing that raised our
- 18 concerns about approaching him at that point.
- 19 Q. So again, when you're thinking about the gathering
- 20 information and intelligence and the National Decision
- 21 Model and you're talking about risk to you, what
- 22 particular risks at that stage do you think Sheku Bayoh

1 posed for you and PC Paton?

2 A. The main one was being in possession of the knife, or --
3 and the fact that we didn't know where the knife was
4 increases -- I mean there's already a risk to us because
5 we know or believe that he's got a knife.

6 Q. And at that point, what risk, if any, did you think
7 there was to the public, or was it what you have
8 mentioned just a short time ago?

9 A. Just what I mentioned previously, the fact that going by
10 the description and the calls that had been coming
11 across, I didn't know what his intentions were.

12 Q. So there was no member of the public visible at that
13 time, but there was the potential risk?

14 A. There was the potential, yes.

15 Q. Right. And did you consider that he was a potential
16 risk to himself at that time?

17 A. Yes, there was always that possibility. I think one of
18 the last updates was he was walking down the middle of
19 the road on Hayfield Road which, aye, it is a -- there's
20 a risk of injury from doing that obviously as well.

21 Q. So when we come on to the second part of the National
22 Decision-Making Model, "Assess threat and develop

1 a working strategy", how did you -- when you factored in
2 this information about how he looks at Hayfield Road,
3 how did that affect your working strategy?

4 A. That's when we decided to approach him. That would be
5 safe, or an option, a safe option for us to approach him
6 and speak to him.

7 Q. You have still got your spray in your hand?

8 A. Yes.

9 Q. And you have said that was your go-to --

10 A. Yes.

11 Q. -- piece of equipment. But the way he looked at the
12 scene in Hayfield Road, did that cause you to adapt or
13 develop your working strategy in any way, or were you
14 still content with the working strategy that you had?

15 A. I think we obviously had to keep in mind the fact that
16 he could still possibly have a knife and, like I say,
17 for a knife, CS spray is the best option, or PAVA spray
18 in my instance is the best option, because you can
19 administer that from 15 feet away and I think what needs
20 to be appreciated is just because we have the spray
21 drawn it's not -- it might not be visible. You could
22 take the spray into your hand and then keep it down by

1 your side, so although you're approaching somebody, it's
2 not immediately in the shown position.

3 Q. I'm going to come back to that and I'm going to ask you
4 more about that in due course. Before I do that, could
5 I ask you to look at a use of force SOP, PS 10933,
6 I think it is. So we have heard about these SOPs,
7 standard operating procedures, and we have heard that
8 officers are trained in them and understand them and
9 have access to them.

10 A. Yes.

11 Q. And this is one relating to use of force, and I'm going
12 to ask you to look at paragraph 5.3.2 and it talks about
13 levels of resistance and it talks about psychological
14 intimidation or presence, verbal resistance, passive
15 resistance -- it is on the screen. Can you see that?

16 A. I can, yes.

17 Q. Can you -- well, I will read the beginning:

18 "The resistance that a person offers can be
19 expressed on a sliding scale from low to high. The
20 levels of resistance below show how a relatively passive
21 subject can still exert some force on a police officer
22 and try to take over control. If this is successful

1 then instead of controlling the subject, the officer is
2 merely responding to them."

3 And then there are six items there, so the first
4 one:

5 "Psychological intimidation or presence. A look,
6 a type of dress or gesture that conveys a hostile
7 message to the officer."

8 What do you understand that to be?

9 A. In relation to ...?

10 Q. Levels of resistance. Is this the way someone looks,
11 but they're not really doing anything or ..?

12 Psychological intimidation?

13 A. He is not resisting us at this point, no. This is
14 a risk assessment as we're approaching him. It's
15 a different thing.

16 Q. So it's a different thing?

17 A. Yes, that's when you're actually trying to engage with
18 somebody and you're telling them "Right, you're under
19 arrest", then that would be whatever level of resistance
20 they're putting against you at that point. This would
21 be still at the risk assessment phase when we were
22 driving towards him.

1 Q. Okay. Let's look at paragraph 7.1 then, and this is
2 headed up "Dynamic risk assessment", and it says, 7.1:
3 "In addition to any role-specific risk assessment,
4 police officers and police staff should conduct an
5 assessment of any actions they are undertaking or being
6 tasked to undertake. This is sometimes referred to as
7 a dynamic risk assessment."

8 And then 7.2 is the eight guidelines for conducting
9 dynamic risk assessments. I would like to go through
10 these with you.

11 A. Mm-hm.

12 Q. So number 1:

13 "Remember your duty to protect/preserve human life;
14 that includes your own."

15 And is that something that you did on the day in
16 Hayfield Road?

17 A. Yes.

18 Q. And you have talked to us about being concerned for
19 members of the public and also for the officers --

20 A. Yes.

21 Q. -- yourself? And then:

22 "To be aware of your physical limits and never take

1 unnecessary risks."

2 Can you explain to what extent you think you have
3 physical limits and what those might be?

4 A. I'm not a long distance runner.

5 Q. So if someone tries to run away from you, you're not
6 chasing after them very quickly?

7 A. I could maybe catch them in a sprint, but aye, if
8 they're making good down the street then aye, that's
9 back to the radio: "He is heading off in that direction,
10 get other units to attend".

11 Q. So that's where an officer might be aware of physical
12 limits but that -- and that may be one of yours, but in
13 terms of other physical limits, do you have any?

14 A. I wouldn't have thought -- nothing that springs to mind.

15 Q. And 3:

16 "Tell someone what you are doing (or going to do)
17 and try to get support before you do it."

18 So did you do that at Hayfield Road?

19 A. Well, that had already been done. That was the "Can we
20 get all units to attend".

21 Q. So that was done effectively by Acting Sergeant Maxwell?

22 A. Maxwell, yes.

1 Q. Asking for all units to attend and requesting support
2 from the control room?

3 A. Yes.

4 Q. Did you think that that was something that you should
5 also be doing and taking responsibility for as an
6 individual, that you should be telling someone what
7 you're doing or going to do and trying to get support
8 for yourself?

9 A. But I knew support was coming. All units were en route,
10 they weren't far away, we weren't far from the station.
11 That's probably -- that probably applies more if you're
12 in a rural station where you didn't have back up that
13 might be close by.

14 Q. So you felt comfortable at that stage that you were
15 going to get the support you needed?

16 A. That they wouldn't be far away, yes.

17 Q. And then 4:

18 "Heed information and advice. It will help you make
19 a judgment."

20 So who was providing you with information and advice
21 at that stage?

22 A. That was just from my own experience about how to deal

1 with it in previous training.

2 Q. So there wasn't anyone providing you with information
3 and advice at that time?

4 A. Other than what was coming across the radio, yes.

5 I mean going back prior to actually arriving at the
6 scene I -- the information was coming from the radio,
7 from the members of the public that were getting passed
8 on.

9 Q. And that was getting shared over the Airwaves?

10 A. Yes.

11 Q. Could we move on to the next page. So number 5:

12 "Apply correct procedures in every situation."

13 And do you feel that was something that you did at
14 Hayfield Road?

15 A. Yes.

16 Q. And 6:

17 "Record your decision-making process either at the
18 scene or soon afterwards in official notebook or other
19 recognised journal."

20 And in 2015 you would have had an official notebook?

21 A. Yes.

22 Q. And when it says "Other recognised journal", what does

1 that mean?

2 A. I think that's in relation to, like, decision books

3 I think. It's not something I have had any sort of
4 dealings with, but I know CID officers and that can have
5 day books which become official documents that they use
6 to take notes, but it's not something I have ever used
7 though.

8 Q. We may hear about day books at a later stage. And when
9 it says:

10 "Record your decision-making process either at the
11 scene or soon afterwards."

12 Do you feel that's something that you did?

13 A. In relation to this incident, no, there was no entries
14 in my notebook afterwards.

15 Q. Okay, I will come back to that later. Then 7:

16 "Your supervisors and managers are there to help
17 you."

18 Did you feel that your supervisors and managers were
19 there to help you that day?

20 A. Yes, they -- yes, the sergeant on the shift was there,
21 he had requested all units to go, he had asked about the
22 availability of the dog unit and ARV and I don't think

1 there's much else he could have done.

2 Q. And that's Sergeant Maxwell?

3 A. Sergeant Maxwell, yes.

4 Q. And then number 8:

5 "Making a proper judgment in good faith will not be
6 criticised."

7 And that's what you had been told?

8 A. Yes.

9 Q. And do you feel your judgments were in good faith that
10 day?

11 A. Yes.

12 Q. Thank you. I would like you to look at another SOP
13 please, PS 10985, "Armed policing operations SOP", and
14 we will look at paragraph 9.10.1. You will see that
15 coming up on the screen. And we have heard that the
16 armed policing operations actually deals with not just
17 firearms but also edged weapons which could be lethal
18 weapons: a knife.

19 So 9.10.1:

20 "In many situations the first officers on scene at
21 a spontaneous firearms incident will be unarmed."

22 Is it your understanding that what that means is

1 they won't have weapons themselves, that the officers
2 are not carrying firearms --

3 A. Yes.

4 Q. -- or that type of thing:

5 "... and in these situations the officers should in
6 accordance with the standard operating procedure and the
7 content of the College of Policing stay safe at firearms
8 incidents follow the See, Tell, Act Guide."

9 Have you heard of this? See, Tell, Act?

10 A. Yes, I think it's part of the OST training.

11 Q. So "stay safe", it says:

12 "Think about your own and the public's safety."

13 And you have told us about that?

14 A. Mm-hm.

15 Q. And we have also heard mention of a "Stay Safe" message.

16 Is that often a priority that officers are reminded to
17 stay safe?

18 A. Yes, it's normal whenever there is any call in relation
19 to any knife or any sort of weapon, that gets passed
20 over the Airwave.

21 Q. And then it says:

22 "See what is happening and where."

1 So you have to observe what is happening and where
2 it is happening?

3 A. Mm-hm.

4 Q. And then:

5 "Tell: communicate, describe incident, type of
6 weapon."

7 And again, when it says "Communicate", can you
8 explain what your understanding of that part of this
9 process is, so:

10 "Communicate: describe incident, type of weapon."

11 A. So that would be if you were there and it was an ongoing
12 incident where you could see the weapon, pass as much
13 details as you can about it.

14 Q. Over the Airwaves?

15 A. Over the Airwaves.

16 Q. And then "Act to stay safe". Again:

17 "Update, observe and contain."

18 A. Mm-hm.

19 Q. And is that something that you feel that you were
20 conscious of at Hayfield Road: staying safe, updating,
21 observing and containing?

22 A. Yes, but this wasn't a firearms incident.

1 Q. We have heard that this SOP applies to incidents where
2 there's a lethal weapon involved, including a knife.

3 Did you know that?

4 A. No, I -- well, no, my understanding would be that it
5 would need to be declared a firearms incident for this
6 all to kick in. As I say, if every time somebody
7 mentioned a knife, "They might have a knife, they've got
8 a knife", it became a firearms incident then that would
9 be -- we wouldn't get round all the calls in a day.

10 Q. All right. Can I ask you to look at another SOP,
11 please. PS 11014, which is "The care and welfare of
12 persons in police custody", at paragraph 8.1.1, which
13 will come up on the screen. 8.1.1, this says "Risk
14 assessment and management", and it says:

15 "The risk assessment of a custody starts as soon as
16 the arresting officers are in contact with the person.
17 The arresting officers have a responsibility to impart
18 all information they have gained about the custody
19 during their enquiry and interaction with them. They
20 should also be mindful of the advantage of gaining
21 information from family and friends if possible and
22 obtaining any medication required if the apprehension is

1 made at the home address."

2 So were you conscious at that time that an arresting
3 officer has responsibility to impart all the information
4 they have gained and we may have heard that the control
5 room will also be looking for information about whether
6 the person is known to them, whether they have a phone
7 number for that person, whether they can contact that
8 person? Were you aware of that?

9 A. In relation to somebody coming into custody.

10 Q. So you think this relates to a completely separate
11 scenario?

12 A. Aye, completely different.

13 Q. Okay, thank you. Well, can I ask you now to look at
14 something else for me, please. It's a PowerPoint slide
15 but we're going to use a picture contained within it to
16 ask you some questions, PS 17208, please. There's 33
17 slides in this PDF, but it's slide 22 I think that I'm
18 looking for and it is called "CUT", and you will see the
19 picture "Edged weapons", "Anything which can be used to
20 stab or slash", so a knife and the reference is to CUT:
21 create distance, use cover and transmit. Are you aware
22 of this acronym?

1 A. Yes.

2 Q. Can you explain to the Chair what your understanding of
3 CUT is?

4 A. That's if you're dealing with somebody who then produces
5 a knife. You create distance from them, you try and
6 find cover, if you've got (inaudible) you transmit to
7 let all your colleagues know that they've got a knife.

8 Q. What does it mean create distance?

9 A. That's the reaction gap that I was talking about. For
10 me this is one where you're going from a situation when
11 you're maybe standing next to somebody noting their
12 details and they suddenly decide they don't want to
13 speak to the police anymore and produce a weapon, so you
14 create the distance back to ideally something like
15 15 feet.

16 Q. Is that like a tactical retreat?

17 A. Yes, to move out of their -- their fighting arc, I think
18 it is referred to in OST.

19 Q. Right, so it's not about creating distance if you
20 suspect someone to have a knife; it's only if they
21 produce the knife? Is that your understanding?

22 A. For that, yes. That's certainly the scenario they run

1 through in OST is you're speaking to somebody and they
2 produce a knife out of their pocket you create the
3 distance and then obviously you transmit that point
4 because it is new information where there's a higher
5 risk to officers who are attending that this boy has now
6 got a knife.

7 Q. And what's your understanding of the "Use cover"?

8 A. Get behind a door, just anything -- put something that's
9 in-between you and the knife, so if he does lunge at
10 you, the chances are they will hopefully miss you.

11 Q. I would like to go back to your Inquiry statement,
12 paragraph 26, please. And you're talking about when you
13 arrived you turned up and saw a muscular male who fitted
14 the description of the suspect:

15 "He was very broad about the chest and had a strong
16 build. This was what informed my initial thoughts on
17 the level of threat and potential resistance I would
18 face. It was for this reason, combined with the
19 information I had received on my PPR ..."

20 Is that your police radio?

21 A. Yes.

22 Q. "... that I made the decision to deploy PAVA spray

1 straight away. I thought that this would incapacitate
2 him immediately without having to get into a physical
3 battle with him and would also allow me to keep a safe
4 distance from a male who was thought to be armed with
5 a knife. Had he complied with our verbal instructions,
6 the PAVA spray would not even have been used.

7 Mr Bayoh's race did not impact on my views."

8 So I would like to ask you a little bit more about
9 this. So you have listed a number of factors there that
10 you took into account when you immediately arrived, and
11 there are a number of other factors that we have heard
12 other people talk about and we've got statements about,
13 and I would like to go through these other factors with
14 you to see whether you maybe did take them into account
15 but you have just not written it down here, or if you
16 didn't take them into account, why you didn't take them
17 into account.

18 So the first thing is, I suppose, distance. You
19 have talked about parking the police van, and in your
20 PIRC statement -- I won't go to this at the moment, but
21 you said you were just in front of him, "nose into the
22 pavement", and I think that's what you mentioned

1 earlier, you thought you were nose into the pavement,
2 that's where you parked the van?

3 A. Yes, a 45-degree angle, because I think you see from the
4 original map, the bus stop's got a lay-by and then we
5 came in at a 45-degree angle.

6 Q. Would it help if we actually bring the reconstruction
7 tile back up, so this is from the evidence video
8 timeline. If we just pause that, please. You will see
9 the reconstruction tile and we will probably see your
10 van appear just in a moment.

11 So your PIRC statement says you were just in front
12 of him, nose to the pavement, and you're saying it was
13 at a 45-degree angle?

14 A. Yes, from my recollection initially, so the van was
15 probably still at the same kind of angle that it is at
16 the moment but further forward, so if I just ... sorry.

17 So that bit there where you see the pavement goes back
18 at a 45-degree angle, so I went in sort of perpendicular
19 to that. That was my recollection.

20 Q. So you thought you were further up the bus stop?

21 A. I thought the van was further forward, yes, but that
22 could just be from line of sight from within the

1 vehicle.

2 Q. And when you parked the car just in front, can you
3 explain to the Chair how far away from the man were you
4 at that time?

5 A. He was on the -- he had made his way around the pavement
6 so he was on the passenger side of the vehicle, so I had
7 the full width of the vehicle between me and him, which
8 would be -- it must have been about -- at an estimate 30
9 to 40 feet from him, but as I say, the whole width of
10 the van was between me and him.

11 Q. Could I ask you, please, to look at your PIRC statement,
12 page 5. While Ms Wildgoose is getting that on the
13 screen, do you see the blue dot on the reconstruction
14 tile?

15 A. Yes.

16 Q. And that, we have heard, is indicative of a person seen
17 on the CCTV moving about.

18 A. Mm-hm.

19 Q. Who would that have been?

20 A. Don't know.

21 Q. You don't know?

22 A. No.

1 Q. Can we look at your statement then for a moment, please,
2 just before we leave this section and we're looking at
3 page 5, please, and it starts paragraph 3, paragraph 4
4 of page 5, and you see it is in the centre of the
5 screen:

6 "I placed the handbrake on and turned off the
7 engine. I took my PAVA spray off my vest and held it in
8 my right hand before getting out. PC Paton got out of
9 the passenger door first and stood on the road and moved
10 towards the pavement. At this point the man ... was
11 still walking west on the pavement and was roughly in
12 line with the front of the van, about 8 feet away."

13 So this is the statement that was given on 4 June to
14 PIRC and you seem to be saying there that he was about
15 8 feet away, he was walking west on the pavement and was
16 roughly in line with the front of the van.

17 A. Mm-hm.

18 Q. So that was your recollection on 4 June --

19 A. 8 feet away from the front corner of the van.

20 Q. -- 8 feet away?

21 A. Not from me.

22 Q. No, no, but from the front of the van?

- 1 A. Front of the van, yes.
- 2 Q. And would that be to your right or to your left?
- 3 A. That would be to my left.
- 4 Q. To your left. And he was walking in the direction that
5 would have crossed the front of your van to turn to your
6 right, to walk to your right?
- 7 A. No. No. He was continuing along the pavement past the
8 bus stop, heading back towards Templehall.
- 9 Q. So you parked in Hayfield Road at the bus stop. As
10 you're looking, you're looking to your left?
- 11 A. Yes.
- 12 Q. And he is about 8 feet away from the front of the van?
- 13 A. The front corner of the van, yes.
- 14 Q. You're gesturing there with your left hand. So is that
15 the side that PC Paton was sitting at?
- 16 A. Paton got out of, yes.
- 17 Q. So he is closer to the side of PC Paton?
- 18 A. Yes.
- 19 Q. And he is walking away from the van?
- 20 A. Walking down the side of the van, yes.
- 21 Q. Can you describe what you mean by the side of the van?
- 22 A. We have turned up, pulled in --

1 Q. Would it help if we have the map on the screen?

2 A. Yes, yes.

3 Q. Put the reconstruction back on please.

4 (Video played)

5 Thank you. You see some blue dots have arrived, but
6 ignore the blue dots for the moment. You have told us
7 that your recollection is the van was at the bus stop,
8 which we can see on the reconstruction tile and the man
9 was at the side of the van. Can you point out maybe --
10 now, we've got red circles, but they're quite big --

11 A. Yes.

12 Q. -- so if you could point to the area where you first saw
13 the man.

14 A. As we approached, like in my statement I said I drove
15 the van sort of directly at the gentleman, so I had seen
16 him at that point and then he was walking -- by the time
17 we parked the van, opened doors, got out, he was --

18 Q. Do you see the letters "Bus stop"?

19 A. Yes, he was walking past the top of them, on that
20 pavement to the left.

21 Q. So he remained on the pavement?

22 A. Yes.

1 Q. Walking to the left as we look at that screen?

2 A. Mm-hm.

3 Q. Near or past the letters "Bus stop"?

4 A. Yes. That was my recollection of where he was, but as
5 I say...

6 Q. It's all right.

7 A. But that was certainly the mechanics of the movement, as
8 far as I'm aware.

9 MS GRAHAME: Thank you.

10 I'm conscious of the time now, sorry.

11 LORD BRACADALE: We will stop for lunch and we will sit
12 again at 2.05.

13 (1.05 pm)

14 (The luncheon adjournment)

15 (2.07 pm)

16 LORD BRACADALE: Yes, Ms Grahame.

17 MS GRAHAME: Constable Walker, before lunch I had asked you
18 about paragraph 26 of your statement and we were talking
19 about the different factors that you had been thinking
20 about, and I had a number of factors that I wanted to
21 speak to you about before we move on to the scene and
22 I will return to that now, if I may.

1 A. Yes.

2 Q. So we were talking about things that we might hear other
3 evidence about and I wonder if you can help me
4 understand if you took account of them and can we look,
5 first of all, at PS 17208 and this is a PowerPoint,
6 a series of slides, a demonstration that apparently is
7 part of the Police Scotland officer training -- or was
8 part of the Police Scotland officer safety training at
9 the time, and I would like to look at slide 11, please.

10 This is, you will see, called "Warning signs", it
11 appears on the screen, and:

12 "Warning signs are attack gestures known as
13 'ritualised combat'."

14 And there is a number given there: direct eye
15 contact, subject stands tall to maximise height, head
16 back, kicking the ground, large movements, breathing
17 rate accelerates and stop/start behaviour.

18 Now, I think we can understand what direct eye
19 contact is. What's "subject stands tall to maximise
20 height"? Do you understand what that is?

21 A. Yes, so basically straight back, shoulders back, just to
22 try and make yourself appear as big as possible. That

1 would be height and sort of width as well and, as I say,
2 as tall as you could possibly be just to give an
3 imposing stance.

4 Q. And "head back"?

5 A. Again, that's partly, when you put your head back it
6 gives you a lot more height.

7 Q. And are these gestures that someone can adopt if you're
8 attending an incident?

9 A. Yes, that's normally something you would watch for, once
10 you had actually engaged with somebody to judge how they
11 were going to be with you.

12 Q. So a warning sign for an attack?

13 A. Yes, just the fact, like I say, that's when somebody
14 comes across -- as I say, he didn't appear to be overly
15 angry when we were observing him; that's somebody that's
16 up strong, and ready for a fight.

17 Q. And then "kicking the ground"?

18 A. I must admit, I don't -- I've never actually seen that
19 in action so I'm not sure what that would look like but
20 pretty much as it would suggest.

21 Q. "Large movements", what are they?

22 A. Again, like I alluded to earlier, the hands in the air,

1 the big gestures, "Who are you shouting at? What's this
2 going on?"

3 Q. "Breathing rate accelerates"?

4 A. Again, you need to be close to somebody to judge that,
5 but if you're getting ready for a fight, your body
6 breathes quicker to get more oxygen in.

7 Q. What's "Stop/start behaviour"?

8 A. That's -- I would take that to be somebody who is calm
9 with you one moment and erratic the next, so you really
10 can't judge whether they're friend or foe, just to be
11 wary of them because they could change in an instant.

12 Q. But there were no signs of these types of behaviours or
13 gestures when you arrived at Hayfield Road?

14 A. Like I say, that would be more once you're actually
15 speaking with someone, so you could get a better eye.
16 I mean, obviously we're too far away to see if he's got
17 direct eye contact or anything like that, but he had
18 none of the -- from a distance, the raised hands, the --
19 he didn't appear to be angry at that point.

20 Q. And then before -- let's move on to the next slide,
21 which is slide 12, so these -- this is a "Danger signs"
22 slide:

1 "Danger signs are more significant than warning
2 signs and are indicative of an imminent attack."

3 So is this something that you had in your
4 consciousness that you had been trained on?

5 A. Again, that's part of the OST for when you're dealing
6 with somebody, but aye, if they were to immediately
7 change, clench their fists, bring them up into
8 a fighting stance and you're standing 6 feet from them,
9 aye, you're going to end up in a physical altercation.

10 Q. "Lips tighten over teeth"?

11 A. Yeah.

12 Q. What's that?

13 A. Probably when you speak through gritted teeth, probably,
14 that's probably how I would take that if somebody was --

15 Q. And "eyebrows drop to protect eyes"?

16 A. Again, if you just sort of do the stereotypical look of
17 somebody who wants to fight, they do that (indicating),
18 everything comes down for protection.

19 Q. Your brow is moving down.

20 A. Yes.

21 Q. "Hands raised above waist"?

22 A. To get ready to fight, to strike out.

1 Q. Stance changes from square to side-way?

2 A. We would describe that as -- on OST we use that as
3 a defensive stance, but it protects the body, so if
4 you're going to fight with somebody you turn side-on, or
5 if somebody was going to fight you would turn side-on
6 and it just protects the front of the body because
7 you're side-on to them.

8 Q. So it minimises the area that that person can reach?

9 A. Yes, so again, these are all sort of natural reactions.

10 They all happen, sorry, subconsciously, somebody who is
11 going to fight will automatically go into that sort of
12 stance.

13 Q. If there's an imminent attack?

14 A. Yes.

15 Q. "Aggressor breaks their stare and looks for intended
16 targets"?

17 A. Sorry, to be honest, if I was dealing with a situation
18 like that and somebody had all the sort of danger signs,
19 unless they were fighting with a colleague -- they would
20 tend not to start looking for a target, they would be
21 speaking to you and not happy with you and you are the
22 focus of their attention, you are their target, so

1 I wouldn't really see what's -- that's not one that
2 I have experienced, where they would suddenly be
3 engaging with me and then change their mind and start
4 fighting with somebody else.

5 Q. And then if they're out of breath the final signal would
6 be lowering of the entire body before moving forward?

7 A. I don't know what the mechanics are behind that one
8 but ...

9 Q. Something that you're aware of?

10 A. Yeah, yeah. The final lunge towards you.

11 Q. And then the last thing I want to ask you about in
12 relation to this PowerPoint is in relation to acute
13 behavioural disorder.

14 A. Mm-hm.

15 Q. So can we turn to slides 23 to 27. We will start
16 with -- is that 27? We will start with positional
17 asphyxia then. 23, is that? I can't see the number on
18 the screen. Let's start with positional asphyxia. So
19 there are slides about this. It is:

20 "... likely to occur when a subject is in a position
21 that interferes with inhalation and/or exhalation and
22 cannot escape that position."

1 Now, this is something that you had had training on?

2 A. Yes.

3 Q. And something you were aware of before you went to
4 Hayfield Road?

5 A. Yes.

6 Q. And it says:

7 "Death can occur rapidly."

8 And:

9 "Restraints can increase the risk."

10 So you were aware of all of that?

11 A. Yes.

12 Q. And then can we move on to the next slide, please. And
13 then it talks about risk factors that contribute or may
14 contribute to the condition, and the factors listed
15 there are:

16 "Body position which restricts/blocks airway."

17 What does that mean to you?

18 A. Lying in the prone position.

19 Q. Prone?

20 A. So their own body weight.

21 Q. "Alcohol or drug intoxication", that speaks for itself
22 I think.

1 A. Yes.

2 Q. "Inability to escape position"; what does that mean?

3 A. For me I would probably suggest that means if you put
4 somebody in the cell area at the back of a vehicle, if
5 it they're face down on the floor then they cannot get
6 away from that position, they're not able to move away
7 just because of the shape of it -- the actual shape of
8 the cell, they're just unable to move from the position
9 that they have been put in.

10 Q. And then "Subject is prone", so on their front "or
11 pinned against a surface or slumped forward"?

12 A. Yes.

13 Q. So it could be any of those?

14 A. Yes.

15 Q. "Obesity", speaks for itself. "Restraint" is that the
16 restraint by officers in a --

17 A. Yes.

18 Q. -- particular position. "Stress", what is -- it says it
19 is a risk factor; to what extent is stress a risk
20 factor?

21 A. I would take that to mean that it probably falls onto
22 the other one, the respiratory muscle fatigue, the fact

1 that they're stressed, they're breathing harder and
2 heavier, the oxygen demand on the body is higher, so if
3 their breath can't keep up with the requirements of the
4 body.

5 Q. And then "Respiratory muscle fatigue"?

6 A. Having to breathe too hard.

7 Q. And then can we move on to the next slide. So "Signs
8 and symptoms", "Active to passive/loud to quiet". Is
9 that what you were saying a moment ago about someone
10 changing, their demeanour changing when they're talking
11 to you or is that something else?

12 A. No, that would be something else. That's somebody who
13 has been loud, shouting -- for instance, if you had
14 somebody in the cell of the vehicle who was objecting to
15 being locked up and then they suddenly go quiet or start
16 to get quiet, then that could be because they're not
17 getting enough air into their body to continue shouting.

18 Q. So that can be a sign of positional asphyxia?

19 A. It could be a sign of many things but yes, it could be
20 of positional asphyxia as well.

21 Q. "Gurgling, gasping sounds"?

22 A. Probably, aye, exactly as it says, you hear somebody

1 starting to gasp for air.

2 Q. "Cyanosis"?

3 A. Blueness of the lips and extremities. Normally of the
4 lip area I think is usually the first one to show signs
5 of going blue through lack of oxygen in the blood
6 supply.

7 Q. So any sign of that could be a sign of positional
8 asphyxia?

9 A. Yes, amongst other things, but yes.

10 Q. And what does it mean "verbals"?

11 A. That would be, again, somebody shouting out the actual
12 fact they cannot breathe, they're not comfy, aye, just
13 basically being told that they're having difficulty.

14 Q. Thank you. The next slide, please. Then we're onto
15 slide 4 "Excited delirium" and this is -- this
16 describes:

17 "A person exhibits violent behaviour in a bizarre
18 and manic way; constant, purposeless, often violent
19 activity; meaningless speech and hallucinations with
20 paranoid delusions; abnormally strength and pain
21 tolerance; CS may not work."

22 So the violent behaviour speaks for itself. Do you

1 understand what manic -- what someone acting in a manic
2 way is?

3 A. Frantic and constant, just constant motion activity.

4 Q. And then it says underneath that "Constant purposeless,
5 often violent activity"; what's that describing?

6 A. The example I could give of that for it would be in
7 excited delirium is I think people are drawn to
8 reflective surfaces so they will go about smashing
9 windows for no apparent reason.

10 Q. Then "Meaningless speech and hallucinations with
11 paranoid delusions". What does that mean to you?

12 A. Again, I had a case of it recently where somebody was
13 shouting out that everybody was here to kill them, we
14 were all aliens and just ...

15 Q. And then the next bullet point is that "Abnormal
16 strength" or "abnormally strong and pain tolerance"?

17 A. Certainly the pain tolerance -- a lot of the open hand
18 controls that we do as well relies on what they call
19 pain compliance, so pressure points in the body, bending
20 joints in certain directions, and if they don't work,
21 then it could be a result of -- it could be a result of
22 lot of things, but they are normally related to drugs

1 which obviously leads on to excited delirium.

2 Q. So if you're performing a technique, an empty hand
3 technique on a person, and they're not responding, and
4 often pain is used to control people in those
5 techniques, so they're not responding to that, that can
6 be a sign of excited delirium?

7 A. That could be a sign of a lot of things but yes, one of
8 them is excited delirium.

9 Q. And then it says "CS may not work"?

10 A. Yes.

11 Q. Is that CS spray?

12 A. Yes.

13 Q. So it may not work on a person if they're suffering from
14 excited delirium?

15 A. Yes.

16 Q. That's the sort --

17 A. And again, that CS spray doesn't work on a lot of
18 people. Some people have natural immunity to it. Some
19 people are trained to be able to fight through it,
20 namely, like, Armed Forces. Again, just drug
21 intoxication and also into excited delirium, so it could
22 be -- it's not exclusively to excited delirium.

1 Q. Not exclusively but one of the red flags?

2 A. Yes.

3 Q. Right. I think that's us looked through all of those.

4 Can I just see the next slide, please. No, sorry, this
5 is the final one "Excited delirium", causes:

6 "Drug and/or alcohol intoxication."

7 You have mentioned that already, "Psychiatric
8 illness", "or a combination of the above". So those are
9 potential causes of excited delirium and then underneath
10 that it says "Medical emergency", "Expect a sudden
11 collapse; acute exhaustive mania can be fatal."

12 What do you understand by that reference to medical
13 emergency?

14 A. That -- as soon as it's identified as being ABD or
15 possibly ABD or excited delirium as it was called at the
16 time, that an ambulance should be contacted as soon as
17 possible.

18 Q. Do you think that's as soon as you diagnose it or as
19 soon as you think that might be a potential diagnosis?

20 A. As soon as you think that it could be ABD, certainly now
21 it needs to be classed as a medical emergency and the
22 ambulance need to be contacted as soon as you suspect it

1 may be.

2 Q. And in 2015?

3 A. It would be a medical emergency probably as soon as
4 you -- I mean they're pretty much the same. As soon as
5 you think it might be and as soon as you diagnose it to
6 be it's probably one and the same, but as soon as you
7 think that's the case then certainly you would be
8 requesting an ambulance.

9 Q. And that's you calling and requesting the ambulance?

10 A. Yes.

11 Q. When you think that that might be the cause?

12 A. That may be the case.

13 Q. Because this says "Expect a sudden collapse" and it can
14 be fatal.

15 A. (Nods).

16 Q. Yes. Could you look, please, at -- could you look at
17 a SOP briefly for me. PS 11014, "The care and welfare
18 of persons in police custody", it's a SOP, and I will
19 just quickly take you to a section at 5.1.3 on excited
20 delirium. Keep going, sorry, it will be further down
21 the page. It might -- there should be a section with
22 "Excited delirium" as the first letters. Well, let's

1 leave that. I obviously don't have the right number.

2 This says:

3 "People who appear to have this condition should
4 only be restrained in an emergency and they should be
5 taken by ambulance to hospital immediately the diagnosis
6 is considered."

7 Would that be consistent with what you have told us?

8 A. Yes.

9 Q. Okay. Did you -- on 3 May in Hayfield Road, did you
10 consider seeking medical assistance for the man that you
11 saw when you first arrived?

12 A. When we first arrived?

13 Q. Yes.

14 A. No.

15 Q. Did you consider the possibility of drugs or alcohol,
16 intoxication with excited delirium or psychiatric
17 illness?

18 A. Not initially because you need to contact him and speak
19 to him and try -- and that's not something you could
20 diagnose from 100/200 metres away.

21 Q. How would you diagnose that? How would you go about
22 doing that?

- 1 A. Extremely erratic behaviour would be the only thing that
2 you could maybe call out early from a distance.
- 3 Q. But that's not what you had here?
- 4 A. That's not what we had here.
- 5 Q. So how would you go about assessing whether that is
6 a factor?
- 7 A. You would need to try and engage with the male first of
8 all. There's only so much you could do from within
9 a van.
- 10 Q. Absolutely, so your engagement would be communicating
11 with the person?
- 12 A. Yes.
- 13 Q. Observing what you see?
- 14 A. The reaction that you get from him, yes.
- 15 Q. And their reaction to any communication?
- 16 A. Mm-hm.
- 17 Q. And do you have any -- of your experience how long would
18 you say that that process takes to communicate and
19 observe the person?
- 20 A. It's an ongoing thing. You get to them, you try and
21 speak to them, do they speak back to you, do they make
22 eye contact with you, do they acknowledge your

1 existence. There's many factors that you do throughout,
2 so it's not just a case of turning up, run through
3 a tick box and then come to a decision. You've got to
4 judge it as you go.

5 Q. So it would take time and you would spend some time with
6 them to make that assessment?

7 A. To see what sort of reaction, yes.

8 Q. Thank you. I would like to go back to the -- we were
9 discussing before lunch the position of the van in
10 Hayfield Road and I think what I would like to do first
11 of all is go to the footage, an enhanced video timeline,
12 and play part of that from around 7.22. This might help
13 refresh your memory on this.

14 (Video played)

15 We can see that at the moment we're 7.21 coming up
16 to 7.22, and if we watch this through first.

17 (Video played)

18 Thanks. Can we stop it there for a moment? Did you
19 see just at the end there on the footage on the
20 right-hand side of the screen, the Snapchat footage?

21 A. The Snapchat, yes.

22 Q. And did you see your van there?

1 A. Yes.

2 Q. I wonder if we could go back to that and have that on
3 the screen, please, and does that refresh your memory
4 about where the van was that day?

5 A. Yes.

6 (Video played)

7 Q. Keep going, please, until we see the van at the bus
8 stop. Keep going, please. So can we see on the
9 right-hand side, the Snapchat footage that we actually
10 see the bus shelter there and the van is parked to the
11 left of the bus shelter?

12 A. Yes.

13 Q. And can you see on the road there that there's some --
14 you can see some of the yellow markings on the road
15 opposite the bus shelter?

16 A. Yes.

17 Q. And the van parked at an angle, as you said?

18 A. Yes.

19 Q. But it's not in front of the bus shelter or at that
20 section?

21 A. Yes, correct, aye.

22 Q. And do you see in the reconstruction tile that the bus

1 shelter -- we can see the roof of the bus shelter with
2 the bus stop markings on the road?

3 A. Yes.

4 Q. And that the van is positioned at an angle, but not
5 right up against the lettering of the bus stop, that is
6 on the road. Do you see that?

7 A. Yes.

8 Q. So are you content looking at that picture of the
9 Snapchat footage and the reconstruction tile that the
10 position of the van was slightly further away from the
11 bus stop, at a slight angle?

12 A. I would have to say the reconstruction tile is slightly
13 different from the Snapchat footage.

14 Q. So you think that's slightly different?

15 A. Yes, the rear offside tyre is sitting on the dotted
16 yellow line; on the reconstruction tile at the top, it's
17 not.

18 Q. Right, so you think -- did you say the nearside is on
19 the dotted line or did you say the offside?

20 A. The nearside -- the nearside rear tyre.

21 Q. Right. So the nearside rear tyre you think is on the
22 dotted line and the rear-side tyre on the reconstruction

1 image you don't think is close enough to the dotted
2 line?

3 A. According to the reconstruction it's the front wheel
4 nearside that's on the yellow dotted line.

5 Q. But you think it's actually the rear?

6 A. You can see from the Snapchat footage that it's the rear
7 tyre that's on -- so the position of the vehicle was
8 different from the reconstruction tile.

9 Q. Okay. Are you content with the reconstruction
10 insofar as it is positioned within the bus stop area not
11 at the far end of the bus stop area, which I think is
12 what you had indicated with the red circle?

13 A. Yes, on initial drawing I thought it I was closer to the
14 pavement, the pavement on the left-hand side -- sorry,
15 the right-hand side.

16 Q. Yes, the pavement on the right-hand side, towards the
17 right-hand side of the bus stop.

18 A. Yes.

19 Q. Thank you. And then I would like to look at some
20 stills, if I may. So we will -- these are stills from
21 the 3D reconstruction, and we will look at number 2
22 first of all, I think. You will see that the bus stop

1 is created there with the yellow markings on the road,
2 on Hayfield Road, do you see that?

3 A. Yes.

4 Q. And then the white transit van is positioned there. You
5 think it is slightly closer to the pavement --

6 A. Yes.

7 Q. -- than the reconstruction. And then can we look at --

8 A. I was going to say, or the markings on the
9 reconstruction are different. The van position might be
10 right but the yellow lines are different but aye,
11 there's an inconsistency there.

12 Q. You feel there's an inconsistency there?

13 A. Yes.

14 Q. And then we can look at slide 5, please, and again, you
15 will see the white transit van on the right-hand side,
16 and so the rear tyre on the nearside is closer to the
17 yellow lines, but it's the rear far side tyre that you
18 think should be closer to the yellow lines?

19 A. No, the rear -- the rear nearside tyre is not on the
20 yellow lines, where in the Snapchat footage it is on the
21 yellow lines, so it's a couple of feet -- it needs to be
22 a couple of feet that way (indicating).

- 1 Q. It needs to be closer to the yellow line --
- 2 A. Yes.
- 3 Q. -- on the yellow line?
- 4 A. If you're comparing the two photos I would say, yes.
- 5 Q. So would you be comfortable if that nearside rear tyre
- 6 of the van was on the yellow dashed line, broken line,
- 7 you would be more comfortable with the position of your
- 8 van?
- 9 A. Or the yellow lines need to be further out underneath
- 10 the van, it depends what's wrong.
- 11 Q. Okay, right. We will address that. Thank you.
- 12 Now, could we go back to still 2, please, and before
- 13 lunch you were talking about when you arrived you were
- 14 driving --
- 15 A. Yes.
- 16 Q. -- and could you point on this screen to where you first
- 17 saw the man when you arrived and parked the car --
- 18 parked the van, sorry?
- 19 A. When we arrived, like I say, when we drove or drove sort
- 20 of straight towards his direction, so just going to
- 21 that -- through line of sight through the windscreen, he
- 22 must have been close to there (indicating).

1 Q. Right. And what distance did you think that was?

2 A. The distance I gave was the distance when Alan Paton got
3 out of the van and engaged with him which he was -- as
4 I say, I could see through the van, so at that point he
5 has obviously walked around a bit further and I would
6 say it was about 40 feet at this point.

7 Q. I wonder if you could use a facility that we have on
8 this screen that allows you to draw a line. So you have
9 given us the red circle with the number 1. Can you
10 indicate with your finger by dragging along the screen
11 what direction the man was walking in.

12 Thank you. So he was on the pavement?

13 A. Yes.

14 Q. And that would be facing you in the van?

15 A. Yes.

16 Q. And when he -- when you got out of the van, what
17 position was he in on the road, on the pavement, sorry?

18 A. Probably close to where the arrow head is at the moment.

19 Q. Right, thank you. And he was still facing in the
20 direction of the roundabout?

21 A. Yes, he was still walking in that general direction.

22 Q. Now, I would like to hold that thought in our minds, but

1 I would like to play you the footage again now, so this
2 is from the enhanced video timeline, and I would like to
3 play from 7.20.23, when your van stopped at the bus
4 stop, to 7.20.39, which is a period of around
5 16 seconds, so we will start at 7.20.23. You will see
6 your van just coming onto the screen at the moment.

7 So first play through I'm going to ask you to look
8 at the CCTV. Second play through I'm going to ask you
9 to look at the reconstruction tile and then the third
10 time I'm going to ask you some questions.

11 A. Okie doke.

12 Q. So let's play, first of all, from 7.20.23 and just watch
13 the CCTV, please.

14 (Video played)

15 Thank you. And then we will go back to 7.20.23 and
16 then we will -- the second time through we will look at
17 the reconstruction tile.

18 (Video played)

19 Thank you. And then we can go back to 7.20.23 and
20 what I'm going to do is ask Ms Wildgoose to play it for
21 a second or two and then we will pause it and I will ask
22 you to do that, thank you.

1 (Video played)

2 Pause it, please. Right, we see here that on the
3 reconstruction tile, one blue dot has appeared besides
4 the white van and we have heard evidence that when some
5 movement is visible on the CCTV, that ALI have put
6 a blue dot to signify that someone is there, so that's
7 on the nearside of the van.

8 A. Yes.

9 Q. And you have already told us that PC Paton got out
10 first.

11 A. Yes.

12 Q. So that blue dot, is that likely to be PC Paton?

13 A. Yes.

14 Q. And then can we play another second or two, please,
15 Ms Wildgoose.

16 (Video played)

17 Pause, please. That second blue dot has now
18 appeared, do you see that?

19 A. Yes.

20 Q. And that appeared to come from the driver's side of that
21 van.

22 A. Yes.

1 Q. So is that likely to be you?

2 A. Yes.

3 Q. Thank you. And you have talked in your statement about
4 walking to the front of the van; so does that appear --
5 that blue dot appear to be consistent with the movement
6 that you took when you got out of the van?

7 A. Yes.

8 Q. Thank you. Then we will play it just a moment or two
9 further -- sorry, can you stop that. Sorry, I wasn't
10 quick enough to stop there. Is it possible to rewind?

11 At one point we see three dots.

12 (Video played)

13 Stop. Right, so as the second blue dot that you
14 said was you disappears, there now appear to be two blue
15 dots on the nearside of the van.

16 A. Yes.

17 Q. Who would they be?

18 A. They are PC Paton and Mr Bayoh.

19 Q. So the blue dot that's closest to the van, who would
20 that be?

21 A. I don't agree with the positioning from them on that but
22 that would be Mr Bayoh.

- 1 Q. So you think closest to the van is Mr Bayoh?
- 2 A. Yes.
- 3 Q. And further away is PC Paton?
- 4 A. Yes.
- 5 Q. You don't think PC Paton would be closer to the van?
- 6 A. No, I think Mr Bayoh would be on the pavement with
- 7 PC Paton in front of him. I don't know where they've
- 8 got the distance from the camera to position that blue
- 9 dot.
- 10 Q. Well, let's just go back -- so there's two blue dots
- 11 there. One blue dot is closer to the passenger side of
- 12 the van and one blue dot is closer to the pavement side?
- 13 A. Yes.
- 14 Q. The blue dot that is closer to the passenger side, who
- 15 do you think that is?
- 16 A. Closer to the passenger side would be Mr Bayoh.
- 17 Q. You think?
- 18 A. Yes.
- 19 Q. So at some point you think PC Paton and the man changed
- 20 positions?
- 21 A. No. PC Paton has got out of the van in front of the
- 22 gentleman, so PC Paton would be on Mr Bayoh's -- or

1 looking at it, he would be on the left, Mr Bayoh would
2 be on the right and I'm at the front of the van.

3 Q. Right, so at this moment in time, you're at the front of
4 the van?

5 A. Yes.

6 Q. You can't be seen, so there's no blue dot?

7 A. There's no blue dot.

8 Q. And Mr Bayoh has been walking along the pavement --

9 A. Yes.

10 Q. -- at the bus stop, which you showed us in the previous
11 slide.

12 A. Mm-hm.

13 Q. And he has now, according to this reconstruction, walked
14 onto the bus stop area; is that your understanding?

15 A. No, I don't think the two of them are ever that close
16 together at that point.

17 Q. Okay.

18 A. I mean, I don't know how they have derived from the CCTV
19 footage the distance from the camera, but if that blue
20 dot was -- if you take a line from the camera, through
21 that blue dot and put it back onto the pavement and then
22 that might be a better and more realistic spacing.

- 1 Q. So at the point you're at the front of the van in
2 Hayfield Road --
- 3 A. Yes.
- 4 Q. -- can you see PC Paton and Sheku Bayoh?
- 5 A. Yes.
- 6 Q. And when you were at the front of the van describe to me
7 where PC Paton was?
- 8 A. Directly in front of --
- 9 Q. In front of what?
- 10 A. Directly in front of Sheku Bayoh.
- 11 Q. Right, and who was closest to the van?
- 12 A. They were both on the pavement.
- 13 Q. They were both on the pavement?
- 14 A. Yes.
- 15 Q. And so PC Paton was closer to the van, did you say? No,
16 I'm obviously getting myself confused.
- 17 A. Yes.
- 18 Q. Just describe for me when you were at the front of the
19 van where the two men were standing.
- 20 A. So I was at the front of the van. On the pavement
21 directly in front of me would be Mr Bayoh and then
22 further along the pavement in front of him was Mr Paton,

- 1 Constable Paton.
- 2 Q. Right, okay. I see, I see. So the man is closer to the
- 3 van and PC Paton is -- was he facing you at that stage
- 4 then? Could you see the front of PC Paton --
- 5 A. Yes.
- 6 Q. -- or the back?
- 7 A. The front.
- 8 Q. So he was facing towards you?
- 9 A. He was facing towards Mr Bayoh.
- 10 Q. Towards Mr Bayoh.
- 11 A. Yes.
- 12 Q. And which direction was Mr Bayoh facing?
- 13 A. Towards Mr Paton.
- 14 Q. So they were facing each other?
- 15 A. Yes.
- 16 Q. And when you were standing at the front of the van you
- 17 could see the man slightly to the left and PC Paton
- 18 slightly to the right, or were they completely in line
- 19 with each other?
- 20 A. No, I could see them clearly -- both left and right.
- 21 Q. So the man, Sheku Bayoh, to the left and --
- 22 A. No.

1 Q. No, sorry, him to the right and PC Paton to the left?

2 A. Aye. Are you able to bring up the reconstruction tile
3 bigger and I will be able to --

4 Q. Yes, yes, that would be good. Let's look at the still,
5 please, that we just looked at. Right, so this is --
6 let me see. Could we go to the previous still, please.
7 So this is still 5. You will see on the right-hand side
8 your van is there.

9 A. Mm-hm.

10 Q. And we can see the yellow markings from the bus stop and
11 we can see part of the pavement. So could you point
12 out, please, where Mr Bayoh was. And can you point out
13 where PC Paton was. And it may be that it is not
14 possible on this still for you to show us where you
15 were, but if we went on to the sixth one, or the second
16 one maybe -- let's go back to the second one, and could
17 you point out where you were?

18 A. Yes, so I would be coming round from the front, from the
19 driver's side to the front, so I would be about there at
20 the front of the vehicle.

21 Q. And again, on this screen, can you show us where
22 Mr Bayoh was?

1 A. It's a slightly different angle, but roughly there on
2 the pavement.

3 Q. And he had walked there from the previous -- in the
4 previous still you put him nearly to the bus stop --

5 A. Yes, by the time we've arrived --

6 Q. -- the shelter, and he had walked to that position?

7 A. -- and got out of the vehicle he has walked down to that
8 point, yes.

9 Q. And can you point where PC Paton is, if possible? So
10 PC Paton is further along Hayfield Road towards the
11 roundabout and he is facing Mr Bayoh?

12 A. Yes.

13 Q. Blocking his path?

14 A. Yes.

15 Q. And Mr Bayoh is continuing along Hayfield Road towards
16 the roundabout, but now he has PC Paton in front of him?

17 A. Yes.

18 Q. And they are facing each other?

19 A. Yes.

20 Q. And you are besides red circle 1?

21 A. Yes.

22 Q. Looking at the scene from that position?

1 A. Yes.

2 Q. Right. Thank you. Sorry, I got myself a bit tied up in
3 knots there.

4 Right, when you gave us your Inquiry statement --
5 and I won't move away from this still at the moment --
6 you said in paragraph 28 -- you can look at it if you
7 wish:

8 "... Paton got out of the van first."

9 And you got out a few seconds later and you say at
10 paragraph 28:

11 "Paton verbally engaged with Sheku Bayoh."

12 Can you explain what you mean when you say he
13 verbally engaged?

14 A. Basically got out in front of him, asked him to stay
15 where he was, "let me see your hands", et cetera, but,
16 like I say, there was -- at that point there was a lack
17 of non-verbal communication from him, he still continued
18 to walk and no real engagement with the fact that we
19 were there.

20 Q. Was he effectively ignoring you?

21 A. Yes.

22 Q. And you say in paragraph 31 that PC Paton shouted -- or

1 shouts a command at Sheku Bayoh as you get out of the
2 van?

3 A. Yes.

4 Q. And he said "Stay where you are, don't move"?

5 A. Words to that effect, yes.

6 Q. Or words to that effect. When he shouted that command,
7 was he effectively in the position that you have circled
8 at number 3?

9 A. Yes. They were both sort of dynamically moving along
10 the pavement towards Hendry Road, but yes, they were
11 sort of -- that was the position relative to each other.

12 Q. Is that the first thing that he says to Sheku Bayoh?

13 A. That's the first thing I'm aware of.

14 Q. That's the first thing you heard?

15 A. Yes.

16 Q. Were you aware of him attempting to communicate with
17 Sheku Bayoh in any other way verbally?

18 A. Verbally, no, just the clear commands to stay where he
19 was and ...

20 Q. Did he warn him, or did he ask him if he had any sharp
21 instruments on him?

22 A. I can't recall. I think it was "Let's see your hands"

1 or something like that, rather than a straightforward
2 question but --

3 Q. So he did say something -- was that before the command
4 or was it after the command?

5 A. At the moment I don't recall.

6 Q. So paragraph 28 you say:

7 "He's got out of the van, he said 'Stay where you
8 are, don't move'."

9 A. Mm-hm.

10 Q. There's no mention there of any other comments. I am
11 just wondering was it before he said that, "Stay where
12 you are, don't move", or after?

13 A. I don't recall. I could just be aware -- I'm engaging
14 with the male, but I don't recall.

15 Q. Right. Did he ask him if he had any sharp implements
16 and ask him to remove them from a pocket?

17 A. Not that I heard, no.

18 Q. Did he warn him at that stage or provide a warning that
19 he might use his spray?

20 A. He was standing in the defensive pose with the spray
21 drawn, but I can't recall if he actually made
22 a statement at that point.

1 Q. PC Paton has given -- gave a statement to PIRC on 4 June
2 and he seems to be saying that he shouted "Get down on
3 the fucking ground". There doesn't seem to be any other
4 suggestion that he engaged him with any other
5 conversation.

6 A. Right.

7 Q. Do you disagree with what PC Paton's recollection was?

8 A. I have no reason to, no.

9 Q. Could you be mistaken that he had any other verbal
10 engagement with him?

11 A. Yes. I mean a lot of what you say in that sort of
12 situation is generic. That's what you get taught in
13 OST, "Get back, stay back, stay where you are, show us
14 your hands", it just it rolls off the tongue, it's
15 drilled into you so, aye, you don't even pay
16 attention -- you're expecting that you know what he is
17 going to be saying so you're not really paying attention
18 to what he is saying.

19 Q. So is it common for police officers to use swear words
20 when they're issuing commands?

21 A. It's not uncommon if somebody's not listening to you to
22 try and stress the point. Do I swear at people? Yes.

1 It's the local lingo, I suppose.

2 Q. Is it common for it to be the first thing that someone
3 says, where the first conversation is using bad
4 language?

5 A. Again, that would need to be -- depend on, like I say,
6 I maybe missed part of what he was saying or whether
7 that was his first or what he said, I don't know. That
8 would be his perception at the time.

9 Q. Certainly I'm simply reading out what PC Paton's PIRC
10 statement says. We have not heard from PC Paton so far,
11 but his recollection on 4 June in 2015 was that he
12 shouted "Get down on the fucking ground". Do you think
13 that would come across as quite aggressive?

14 A. Depends in what manner he said it, but --

15 Q. Well, you were there; how did he say that?

16 A. As a verbal -- a shouted verbal command so it would be
17 heard.

18 Q. All right. Let's leave that there.

19 Then you have told us in paragraph 33 in your
20 statement that PC Paton sprayed him with his CS spray.

21 A. Mm-hm.

22 Q. When he sprayed him -- we're looking at this image on

1 the screen now -- was he still in that position in
2 Hayfield Road?

3 A. No. Mr Bayoh never stopped walking towards PC Paton.
4 PC Paton was back-stepping whilst engaging with the
5 male, so he held a constant distance from him, but the
6 male was always constantly walking towards him, which is
7 probably why the urgency -- it probably explains the
8 urgency and the fact that he swore when he tried to make
9 the male stop where he is. It wasn't a case of he got
10 out, stood in front of him and he stopped to talk to us;
11 he just continued walking down the street and, as I say,
12 PC Paton has tried to engage with him and Mr Bayoh has
13 constantly closed down the gap towards him, so he has
14 had to work to try to keep that reaction gap. So
15 although I've got it marked as 2 and 3, that was
16 dynamically walking down the pavement at that distance
17 from each other -- sorry -- from each other.

18 Q. I think there is water there if you would like a glass.

19 So number 2, Mr Bayoh, he is continuing to walk
20 along; was he walking along the pavement towards the
21 roundabout at Hendry Road?

22 A. I believe so, yes.

1 Q. And can you then -- maybe we will look at another still,
2 maybe look at the next one. Well, actually, number 6,
3 please, I think I would prefer. So you will see that
4 this is from a slightly different angle. Can we bring
5 that down slightly so I can see the page. You will see
6 the transit van there in the bus stop markings and then
7 you will see the pavement you were describing that
8 Mr Bayoh was walking along.

9 Can you indicate on this image where Mr Bayoh was
10 when PC Paton sprayed him, and where was PC Paton?

11 A. Again, he had moved back and back and back trying to
12 keep the reaction gap, but I think it was probably about
13 that point.

14 Q. So he is in the area where we can see a path actually
15 leading through the trees in that sort of area?

16 A. Mm-hm.

17 Q. And the pavement then curves out slightly past the trees
18 and goes towards the roundabout at Hendry Road?

19 A. Yes.

20 Q. Where were you at this point?

21 A. I could mind actually coming round to the front of the
22 vehicle, being next to the head lamp.

1 Q. How far were you from -- well, we see the red circle
2 there, number 1, which indicates where Mr Bayoh was.

3 How far were you from Mr Bayoh?

4 A. 20 feet?

5 Q. You could see his back; was he still facing PC Paton?

6 A. Yes, he was still making his way towards PC Paton.

7 Q. Tell us how PC Paton used his spray, describe that for
8 me?

9 A. Like I say, when he engaged with him he had it in what
10 we call the spray drawn position, which is with the
11 spray up on -- with a defensive hand out, telling him to
12 keep back, moving back from him, and then when he
13 sprayed it he just as normal, thumb on the top of the
14 canister and that deploys the spray at that point.

15 Q. And how far was PC Paton from Mr Bayoh at that time?

16 A. 10 feet, certainly close enough for the spray to be
17 deployed.

18 Q. So that's within the sort of range of the CS spray?

19 A. Yes. They say it's effective up to about 15 feet.

20 Q. I wonder if you would mind helping the Chair by coming
21 out from the chair and demonstrating that stance that
22 you have been talking about. We will be able to provide

1 you with a model CS spray, so this would be to describe
2 how PC Paton stood and when you come out, if you don't
3 mind, you will see that there's a small bit of plastic
4 sticky tape on the ground and just for your own
5 information, Constable, that camera over there behind,
6 that's the camera that's going to record what you
7 demonstrate. That is the CS spray model that you have
8 in your hand and it has got water in it, so whatever you
9 do, don't spray that at me. So that's the camera that
10 we're going to have and I would just like you to
11 demonstrate to the Chair and the Assessors how PC Paton
12 was standing.

13 A. (Inaudible - too far from microphone).

14 Q. So Mr Bayoh would have been further away from PC Paton
15 about -- what was the distance you said, sorry?

16 A. (Inaudible - too far from microphone) here to the desk.

17 Q. Here to the desk.

18 A. Yes -- (inaudible - too far from microphone).

19 Q. Right. So is he standing like that when he shouted "Get
20 down on the ground"?

21 A. Yes.

22 Q. Yes. But there was no reaction from Mr Bayoh?

- 1 A. None whatsoever.
- 2 Q. All right. Please, thank you so much, sit down again.
- 3 Has Mr Bayoh actually said anything by this point?
- 4 A. Not that I'm aware of, no.
- 5 Q. And you said in your statement, paragraph 33, that he
- 6 continued to be a threat to PC Paton?
- 7 A. Yes, that's what I'm saying by constantly walking
- 8 towards him, bearing in mind that we were still under
- 9 the impression that he could have a knife concealed
- 10 within him, or concealed on him.
- 11 Q. So the big factor for you is he could have a knife
- 12 concealed?
- 13 A. It's trying to keep that reaction gap which this
- 14 gentleman is constantly trying to close down by walking
- 15 towards him.
- 16 Q. Right. So PC Paton is at the front?
- 17 A. Yes.
- 18 Q. And you are towards the rear of Mr Bayoh?
- 19 A. Yes, aye.
- 20 Q. So you're at position 3?
- 21 A. Yes.
- 22 Q. So you can see the back of Mr Bayoh and couldn't see any

1 knife?

2 A. Not at that point, no.

3 Q. No. If you had seen a knife, is that the sort of thing

4 that you would have transmitted to PC Paton by

5 shouting --

6 A. Yes.

7 Q. So that would be using the CUT sort of approach, CUT, T

8 being transmit to those around you, is that the type

9 of --

10 A. Yes.

11 Q. -- process that you would have followed?

12 A. Yes.

13 Q. But you couldn't see any knife there?

14 A. No, nothing (inaudible).

15 Q. Not on you?

16 A. No. That doesn't mean to say it's not under his

17 clothing or whatever, but yes, there was nothing

18 visible.

19 Q. Nothing visible at that stage. We have heard he is in

20 a white T-shirt?

21 A. Yes.

22 Q. Then if PC Paton had said anything from the front, would

1 you have expected him to transmit that information to
2 you?

3 A. If the male was to suddenly produce a knife, yes, it
4 would be like -- that he's got a knife --

5 Q. So if he could see a knife --

6 A. -- if a knife was to be (inaudible overspeaking) --

7 Q. -- or if the male produced one, you would expect him to
8 shout that to you?

9 A. Yes.

10 Q. And is that in accordance with the CUT sort of approach
11 that's taken?

12 A. Yes, just generally looking out for your colleagues as
13 well, but yes.

14 Q. So when the spray is used, at that point you have heard
15 nothing from Mr Bayoh, he is not acting aggressively,
16 there's no sign of a knife, he is not attacking
17 PC Paton, he is walking in that direction. Effectively
18 he is just simply ignoring the commands from PC Paton;
19 is that right?

20 A. He is not following -- he is not choosing to follow
21 instructions, yes.

22 Q. So he is not complying --

- 1 A. Yes, he's not complying --
- 2 Q. -- with PC Paton's command?
- 3 A. Yes, that's the word I was going to -- not complying.
- 4 Q. So he is just ignoring it completely?
- 5 A. Yes.
- 6 Q. Is that the normal sort of response you get from someone
- 7 when two police officers attend in a van, one of them
- 8 shouts a command, swearing perhaps, and has a spray?
- 9 Did that strike you as odd, or do you often get people
- 10 ignoring you?
- 11 A. Anything's a possibility so, aye, just ignore you, try
- 12 and walk past you, keep going, does not stop, try and
- 13 make good his escape, he was just trying maybe to get
- 14 round PC Paton to get to the path to run off. Aye,
- 15 anything's a possibility at that.
- 16 Q. What difference did Mr Bayoh's lack of verbal
- 17 communication and lack of reaction -- how did that
- 18 impact into your assessment of the risk and the threat?
- 19 A. At that point it didn't, I would have to say, it was
- 20 just all about the fact that he may still be in
- 21 possession of a knife. That's the overriding safety
- 22 to -- the preservation of life, first of all, to get him

1 under control and find any weapons.

2 Q. Thinking about what PC Paton did at the scene, he
3 shouted a command, it's been ignored, he has used his
4 spray.

5 A. Yes.

6 Q. What could he have done to try and de-escalate that
7 situation?

8 A. Bearing in mind the officer safety part of it and the
9 fact that that male was needing to come into custody,
10 that he was maybe possibly still in possession of
11 a knife, that the roadway was still open for members of
12 the public to arrive there, he has given a clear and
13 verbal instruction for the male to stop and to comply
14 and the male has failed to do so. I think he has done
15 what would be expected of him.

16 Q. So he has used the spray. How did Mr Bayoh react to the
17 use of that spray?

18 A. I -- he had no reaction to it but I'm not convinced how
19 much of it actually reached him due to the wind that
20 day. It was blowing -- well, straight up from this
21 image, but east to west.

22 Q. Towards PC Paton?

- 1 A. Towards PC Paton, yes.
- 2 Q. So he discharged his spray with the wind blowing towards
3 him?
- 4 A. Yes.
- 5 Q. Is it possible then that the spray didn't actually reach
6 Mr Bayoh?
- 7 A. And that it didn't have an effect? Yes, that's
8 possible.
- 9 Q. Well, it actually didn't even connect with him if the
10 wind was blowing in the direction of PC Paton?
- 11 A. Yes, because, like I explained earlier, the CS spray
12 atomises into a cloud, so that gets picked up on the
13 wind and blown away which is another reason that we
14 moved on to PAVA.
- 15 Q. Okay. From where you were, do you think the spray
16 connected -- the droplets connected with Mr Bayoh?
- 17 A. That's impossible to say because it wasn't a cloud,
18 it's -- aye, you couldn't tell.
- 19 Q. Okay. So paragraph 34 of your statement you say:
20 "PC Paton ducked away and crouched down towards the
21 van with his hands to his face."
- 22 A. Yes.

- 1 Q. So can you see the area on this slide -- if not we've
2 got others, but can you see the area where PC Paton then
3 ducked away and crouched down towards the van?
- 4 A. That would be at point number 2, where he has sprayed
5 and then it has blown back on him.
- 6 Q. So he ducked down in the -- he didn't move from that
7 position?
- 8 A. At that -- he has folded over, ducked down and turned
9 towards the van as opposed to move --
- 10 Q. He didn't move towards the van?
- 11 A. No, no, no, not at that point. He ducked.
- 12 Q. He ducked down in the position he was in --
- 13 A. Yes.
- 14 Q. -- on Hayfield Road?
- 15 A. Yes.
- 16 Q. I see. So he has crouched down in that where area where
17 the red circle is, hands to his face?
- 18 A. Yes.
- 19 Q. What did Mr Bayoh do?
- 20 A. Continued walking towards him.
- 21 Q. And when you say towards him, you mean towards where he
22 was crouched down?

- 1 A. Yes, yes.
- 2 Q. Or -- right, thank you. Again, any verbal communication
3 at that point?
- 4 A. None that I'm aware of.
- 5 Q. None. Did he demonstrate any reaction to having been
6 sprayed?
- 7 A. None.
- 8 Q. Had he changed direction -- you have told us how he is
9 walking along Hayfield Road; had he actually changed
10 direction in any way?
- 11 A. He didn't appear to have.
- 12 Q. I would like to go back to yourself now. You're the red
13 circle number 3, and in your statement at paragraphs 37
14 and 44 you told us that you shouted a command.
- 15 A. Yes.
- 16 Q. "Stay there, drop your weapon". Was that in the
17 direction of Mr Bayoh?
- 18 A. Yes. I actually think I might have shouted "Oi", or
19 something like that first to get his attention.
- 20 Q. Did you get his attention?
- 21 A. Yes. He immediately turned round and started walking
22 towards myself.

1 Q. Right. Did you ask him if he had any -- did you attempt
2 to communicate with him, ask him whether he had any
3 sharp implements or what was wrong?

4 A. I told him to stay there, told him to -- well, it's in
5 the statement, "Drop any weapons that you've got", and
6 no reply, just walked -- kept walking straight towards
7 me.

8 Q. So no reaction at all?

9 A. None.

10 Q. But he did change direction at that point?

11 A. Yes, aye.

12 Q. Did you issue a warning that you may discharge your
13 spray?

14 A. I don't think I did, no.

15 Q. Was there a reason for that?

16 A. Because the situation changed that quickly that he was
17 now walking towards me, he wasn't following commands,
18 closing down the gap again, and, as I say, that's --
19 it's a standard drill for OST, if somebody is walking
20 towards you, posing a threat, it's "Get back, stay back,
21 stay where you are, I'll spray", and you shout "spray"
22 as it is being sprayed as opposed to giving a verbal

1 warning.

2 Q. That's what you're taught in OST?

3 A. That's the standard drill, yes.

4 Q. You said he was posing a threat. Do you want to say
5 a little bit more about how threatened you felt?

6 A. Again, it's going back over the fact that we have
7 numerous credible witnesses stating that he is in
8 possession of a knife, a big knife. He is coming
9 towards us, he is not engaging with us, we covered it a
10 wee bit earlier on, but he has got a stare about him
11 that's -- aye, it just felt like a dangerous situation
12 and he was closing the gap on me rapidly so the spray
13 was deployed.

14 Q. Were you afraid about any threat to your life at that
15 stage?

16 A. At that point, yes. For injury, definitely.

17 Q. Afraid of being injured?

18 A. Yes.

19 Q. So you had a PAVA spray?

20 A. Yes.

21 Q. You have told us and you have explained the difference.

22 I wonder if you would look at something for me, please,

1 which is a PAVA spray. I think it is PIRC 00816
2 actually. This should be in a container. Do you
3 recognise that as your PAVA spray?

4 A. That is a PAVA spray. There's a serial number on the
5 bottom that would relate back it being mine, but it's
6 got my signature on it so that would be the one that
7 I handed over so again, no reason to doubt that that is.

8 Q. So that was yours. I wonder if again you would mind
9 demonstrating for the Chair and the Assessors the way
10 that you held the spray when you were in Hayfield Road?

11 A. It would be exactly the same.

12 Q. Oh, exactly the same?

13 A. Exactly the same. Again, that's a thing you get shown
14 at OST, the hand in front to fend off, the hand back for
15 the spray.

16 Q. Right. So can we look at paragraph 36, please.

17 (Pause).

18 Sorry. So paragraph 36 you said you noted that
19 PC Paton was in a vulnerable position:

20 "... I called out to the male which caused him to
21 turn and face me."

22 That's what you have just said?

1 A. Yes.

2 Q. "He then looked directly at me with what I would
3 describe as a vacant or thousand yard stare."

4 So tell me when you use the words "Vacant or
5 thousand yard stare", what did you mean by that?

6 A. Like he wasn't focusing on me, he was looking through
7 me, and it was a stare, it was a constant stare.

8 Q. He wasn't blinking?

9 A. No, just an open-eyed stare and like I say, it wasn't
10 like he was -- he wasn't looking at the spray that was
11 in my hand or my hand -- he didn't seem to be -- aye, it
12 was just a -- it was quite an imposing sort of intense
13 stare.

14 Q. And when you saw him look that way, how did you factor
15 that into your assessment of the situation? Because as
16 I understand it, that's the first time you have really
17 seen his face?

18 A. Mm-hm. Probably at that point it would be the fact that
19 communication was going to be an issue. He wasn't
20 communicating with us non-verbally as well as verbally
21 in that -- it was hard to judge because to say that he
22 wasn't in control of his actions because he was, he was

1 able to walk along, he was able to, you know, turn when
2 I shouted at him, he was able to walk towards me, so it
3 was just really hard I would say to judge like what was
4 going on with him, but at the same time there was -- he
5 was still coming towards me.

6 Q. What did it make you think? When you saw him looking
7 that way, what did it make you think about his state of
8 health?

9 A. Again, that's a hard thing to judge. It could be drink,
10 could be drugs, could be a mental health, it's one of
11 these things that yes, it's a symptom of one thing, but
12 it's also a symptom of many, so it's not just a case of
13 "This is what we're dealing with", it's ...

14 Q. So you think -- it goes through your mind it could be
15 drugs, it could be alcohol --

16 A. It could be anything.

17 Q. -- it could be mental health?

18 A. Aye, there's no point of jumping to any sort of
19 conclusion because it could be one, it could be many.

20 Q. And you know that he has not been engaging with you
21 verbally?

22 A. Yes.

1 Q. And he is effectively ignoring you and he is looking
2 through you now?

3 A. Yes.

4 Q. How did you factor that into your assessment of the
5 situation?

6 A. That -- I mean it was basically if you can't communicate
7 with somebody then you're not going to ask them to stay
8 where they are, stay back, you know, it's -- I don't ken
9 what I'm trying to describe, but -- the communication
10 part of it's not going to happen, so we're going to have
11 to move on to the next part, which would be getting
12 hands on the male.

13 Q. Did you consider stepping back and moving away from him,
14 making a sort of tactical retreat, if you like?

15 A. Again, like PC Paton, as he was approaching me I was
16 taking a couple of steps back just to try and keep that
17 gap from him, but getting back in the van and driving
18 off wouldn't have been an option I wouldn't have
19 thought.

20 Q. But could you consider moving back, moving away from the
21 man, giving him more space?

22 A. I tried to do that, but obviously I was walking

1 backwards and he is walking forwards, he is closing the
2 gap quicker than I can make the gap.

3 Q. Sorry, I thought you were walking back to retain that
4 reaction gap?

5 A. Yes.

6 Q. I'm talking about could you have walked away further
7 back to give him more space larger than the reaction
8 gap?

9 A. But I have still got to step backwards from him to do
10 that. I'm not going to turn my back on somebody that
11 I think might be in potential possession of a knife, so
12 I have still got to keep eyes on him and I'm taking
13 steps backwards as I do so, and obviously I can only go
14 back at a certain pace and walking forwards is always
15 quicker than going backwards.

16 Q. You --

17 A. His focus is on me and he is coming towards me.

18 Q. -- I thought his focus was on a thousand yard stare
19 through you?

20 A. Well, coming through me, yes.

21 Q. Could you have stepped round towards the van, behind the
22 van?

1 A. That was the direction I was going to the headlight back
2 round and he was still coming towards me. I'm not
3 consciously being aware of doing that, but aye, I was
4 keeping to the van as I was going round.

5 Q. Could you have walked back round to the driver's side?

6 A. I mean, I was taking steps back and he closed the gap as
7 far as I was comfortable with allowing him to close the
8 gap.

9 Q. So you didn't feel comfortable going further away or
10 turning your back on him?

11 A. I certainly wasn't going to be turning my back on him
12 and as I say, he is walking with purpose quicker than
13 I could step backwards. He's the one that's actively
14 closing the gap on me so I'm not taking any chances.

15 Q. Right. Did you consider at that stage transmitting on
16 the Airwaves and saying "This guy needs an ambulance"?

17 A. No, not at that point.

18 Q. Why not?

19 A. Because I didn't know what was the cause of what was
20 going on. Like I say, we had just turned up, he wasn't
21 talking to us, we still thought he had possession of the
22 knife. That takes concentration to transmit on the

1 radio and pass a message, where my focus is solely on
2 him and keeping myself and the public safe.

3 Q. And during this time, PC Paton is still crouched down?

4 A. At this point I had lost sight of PC Paton. My focus
5 was purely on Mr Bayoh. As long as Mr Bayoh was coming
6 towards me, he wasn't going towards PC Paton so ...

7 Q. Can we look at paragraph 38, please. You say:

8 "At this point I formed the opinion that he was
9 physically capable of causing serious injury to someone,
10 and was clearly in some sort of 'rage' or zombie state."

11 And I just wonder if we could look at those words,
12 "rage" and "zombie state". What does "rage" mean to
13 you?

14 A. When I was saying something like that it would be,
15 you know, where you could get yourself so worked up and
16 so angry that you lose control of your surroundings,
17 awareness of your surroundings, would be my take on
18 that, or, sorry, what I would mean, just somebody who
19 has lost his senses, got that angry, got that irate that
20 he has lost his senses and --

21 Q. And then you also mention a "zombie state"?

22 A. That was coming back to the thousand yard stare and the

1 fact that he was not speaking to us or talking to us.

2 Q. So the "zombie state" reference was to the fact he
3 wasn't communicating?

4 A. Yes.

5 Q. And he had this thousand yard stare?

6 A. Yes.

7 Q. And the rage -- it wasn't that he was demonstrating
8 signs of anger, but he had got himself so worked up or
9 angry --

10 A. A possibility, yes, that (inaudible overspeaking).

11 Q. Yes, okay. You didn't feed any of that information back
12 to the control room?

13 A. Mm-hm.

14 Q. Was there a reason for that? Because this is the first
15 time that you have seen him from the front?

16 A. Yes.

17 Q. Was there a reason that you didn't factor that back to
18 the control room, or on the Airwaves transmission?

19 A. Like I said, it was officer safety at that point. He
20 was coming towards me, there was an immediate risk to
21 myself and you need a hand to transmit on the radio,
22 whereas if you're in that sort of stance you didn't have

1 a hand, so it's not just a case -- it's not the first
2 thing that comes into your mind when somebody is within
3 striking distance of you to pass that back on the radio.

4 There's other priorities at that time.

5 Q. Was there any way or any place that you could go to to
6 escape from Mr Bayoh walking towards you?

7 A. Again, that would involve turning my back on somebody
8 who has possession of a knife which is just something
9 that you would never do.

10 Q. Okay. Then can we look at paragraph 37 -- sorry, just
11 go back slightly. You say you shouted at him "Stay
12 there", do you see that paragraph?

13 A. Yes.

14 Q. And then you again -- so you shouted "Stay there" or
15 words to that effect, you had your PAVA spray, you're in
16 the defensive position and you say:

17 "I again shouted 'drop your weapon' or something
18 like that, but there was no response."

19 So that was the sort of second thing that you said
20 to him there?

21 A. Yes.

22 Q. "Drop your weapon". Where could he have concealed

1 a weapon?

2 A. In the belt loop of his jeans, in the waistband of his
3 jeans.

4 Q. Underneath the --

5 A. Underneath clothing.

6 Q. Underneath the T-shirt?

7 A. Yes. Or in his pocket. Bear in mind that we hadn't
8 seen the knife at that time, we just had the description
9 a large knife, but he could have numerous pockets on his
10 jeans, or as I say down his waistband or -- there are
11 places it could be quite easily hidden on the person.

12 It could have been a folding blade as well for all we
13 knew, so it could have been folded up into a pocket
14 knife or anything so we weren't taking any chances.

15 Q. And then after you had shouted those commands you
16 sprayed him with your PAVA spray?

17 A. I did, yes.

18 Q. And can I ask you with other incidents -- you talked
19 about that this morning -- with other incidents where
20 you have been called out and someone is said to maybe
21 have a knife, have you often used your spray if someone
22 is not complying with your commands?

1 A. That would be the first scenario of that type. I mean
2 I have been to other calls like that, it was pretty soon
3 after this, a gentleman believed to be in possession of
4 a knife, we turned up, didn't have a knife visible when
5 we approached him with the spray drawn, gave them --
6 "stay where you are, let me see -- there's an allegation
7 been made, have you got a knife on you", and he's
8 went -- well, no, it was actually one of the first sort
9 of electronic cigarettes that came out that had been
10 misidentified but no, it's not unusual to approach
11 somebody with your spray. Like I say, maybe not in that
12 stance, but certainly in your hand and down by the side
13 or something like that.

14 Q. So with the other one you're describing, you had your
15 spray down at the side?

16 A. Yes.

17 Q. Beside your leg?

18 A. Yes.

19 Q. With Mr Bayoh you had -- you were in a defensive
20 position with your spray drawn?

21 A. Yes, I got out the van with it down by my side but when
22 he turned and started walking towards me the spray went

1 up into the defensive position at that point.

2 Q. So that was the point at which it's in the defensive
3 stance?

4 A. Yes.

5 Q. I think I asked you this morning about the use of spray,
6 I don't need to go back over that.

7 Can I ask you about some alternative tactics that we
8 have heard about and we may hear more about.

9 A. Mm-hm.

10 Q. Can we look, first of all, at your statement. You have
11 already answered some questions about this,
12 paragraphs 42 and 43, and you were asked some questions
13 about calming situations down, de-escalating, or
14 defusing situations, and you have given us some
15 information here, so you have already answered in
16 relation to PC Paton. Did you ask Mr Bayoh any
17 questions designed to calm the situation down,
18 de-escalate or defuse the situation?

19 A. I mean the first instruction was to stay there and if
20 somebody is wanting to engage with you, they will stop
21 and talk to you at that point, but if it's a one-sided
22 communication with both non-verbal or lack of verbal

1 also coming back from them, then it's hard to
2 de-escalate through communication when it's one-sided
3 communication.

4 Q. And is that your expectation even if the person is under
5 the influence of drink or drugs or suffering from some
6 sort of psychiatric episode?

7 A. You would expect some sort of acknowledgement in fact
8 that the police were there, yes, or in my experience, if
9 people want to speak to you, then they will start
10 communicating back with you.

11 Q. Right. Can I ask you if you know about something called
12 the 5-Step Positive Style. Have you heard of that?
13 I won't ask you to remember it off the top of your head.
14 Let me ask you --

15 A. Is that the my actions read(?) to your actions?

16 Q. Let me show you a slide regarding tactical
17 communication, PS 17208. We're looking for the one that
18 says "tactical communications". Yes, we have looked at
19 a number -- sorry, it's carry on -- I have not got the
20 number here, sorry, Ms Wildgoose.

21 (Pause).

22 I seem to have lost this. Could you give me one

1 second and I will just check the slide number.

2 Number 7, I think it might be, sorry. Yes. "The
3 5-step 'positive style' of tactical communications", and
4 you will see there are five listed: ethical appeal,
5 reasonable appeal and explain, personal appeal and
6 options, practical appeal and confirmation and number 5
7 is action. Do you recognise that description, 5-Step
8 Positive Style?

9 A. (Pause).

10 Q. This is part of an officer safety training presentation?

11 A. Yes.

12 Q. It's taken -- key elements taken from the manual, OST
13 manual. Well, let me --

14 A. No, I just can't recall ever being -- anybody running
15 through them or anything like that, I'm being honest.

16 Q. Let me give you some examples and it might refresh your
17 memory. So ethical appeal, this would, as I understand
18 it -- and there's evidence before the Chair about this
19 in a statement, that this would be a direct request such
20 as "Could you stand over there, please". Did anybody
21 say that to Mr Bayoh?

22 A. Just "Stay there".

1 Q. Just "Stay there", and "Reasonable appeal and explain"
2 would be something like "This is why I'm asking because
3 you're causing a disturbance or you're breaking the
4 law", so the communication approach would be "This is
5 why I'm asking you to stand over there because you're
6 causing a disturbance or breaking the law". Did anyone
7 say anything like that to him?

8 A. Again, I think that would be in relation to a different
9 type of incident. This has gone straight into the other
10 drill that I was saying where someone is closing down on
11 you for the reactive arc is "Get back, stay back or you
12 will get sprayed". It doesn't apply in this instance.

13 Q. You didn't think it applied here?

14 A. No, this is for somebody who is, like I say, happy to
15 communicate, who might be in possession of a knife, who
16 are wanting to self-harm or something like that. You
17 would say, talk to them "Come on, what's wrong with you,
18 what's going on today", somebody who is wanting to talk
19 to the police, who is calm, who is no threat to anybody
20 straight away. It's a completely different scenario
21 to -- for in relation to Mr Bayoh who was an immediate
22 threat and as I say, it relies on OST training which

1 is: "get back, stay where you are", clear verbal
2 commands. If they fail to follow the verbal commands
3 and close you down, then the spray gets deployed.

4 Q. Okay. Let me just finish this for completeness then.

5 "Personal appeal and options" would be something along
6 the lines of, "If you continue to ignore my request, you
7 may end up being arrested and if so, you could lose your
8 job". There was nothing like that said here?

9 A. No, there was no time for anything like that to be
10 passed.

11 Q. And then number 4 would be something like "Is there
12 anything I can do as a police officer or say that would
13 make you cooperate". There was nothing like that said
14 here?

15 A. No.

16 Q. No. So there was no attempt to ask Mr Bayoh, for
17 example, "What's wrong", or "Are you not feeling well?"
18 "Are you okay?"

19 A. (shakes head).

20 Q. No attempt to do that. No attempt to ask him if he had
21 a knife or to ask him "Tell me what's been happening to
22 you"?

- 1 A. I asked him to drop any weapons that he had.
- 2 Q. Right. And we have heard some evidence about officers
3 giving people some space, some time, some distance to
4 allow them to start communicating with officers. Did
5 you consider that that was appropriate in this
6 situation?
- 7 A. No because we have still got a male who is in possession
8 of a knife, or potentially in possession of a knife who
9 we believed to be in possession of a knife on an open
10 road with potential for vehicles or members of the
11 public to exit their houses and that's all. Time has to
12 be balanced with the risk.
- 13 Q. At any time did you consider walking alongside Mr Bayoh
14 instead of blocking his path in any way?
- 15 A. No, in relation to the OST training, I wasn't going to
16 get that close to him. He was walking straight for me.
17 I didn't kind of want to get alongside him without
18 getting close enough that I would be within his fighting
19 arc which --
- 20 Q. And that's not something that PC Paton did when he first
21 got out of the van, walking --
- 22 A. He's got out onto the pavement which is where Mr Bayoh

1 was and tried to engage with him and that's not happened
2 and, as I say, Mr Bayoh has been closing down the
3 reaction gap at that point.

4 Q. Okay. After PC Paton sprayed him and after you sprayed
5 him, did you consider that the use of a spray could make
6 a person have increased aggression?

7 A. No. I mean the idea of spraying the spray is to
8 incapacitate the person, which, as far as I'm aware
9 is -- the only thing you are told to spray is you don't
10 spray somebody who has a gun in case they start firing
11 off in random directions when they can't see, but aye,
12 on that point there you would always spray somebody.

13 Q. Did you consider when you were reviewing the situation
14 as it evolved, did you consider that the act of spraying
15 someone could cause them to become more aggressive?

16 A. Not really, no, it's not something that I think we have
17 even covered in training. If you're at a point where
18 you need to spray someone, the fact that that might make
19 them a wee bit more angry is kind of by the by. The
20 spray needs to be deployed, there's an imminent risk to
21 myself, the spray is being deployed at that point.

22 Q. Okay. We know Mr Bayoh was black. At any stage at that

1 point did you have any concerns or perceive any risk of
2 communication difficulties with him?

3 A. No, because even if there's a language barrier, you
4 would have the non-verbal communication and the fact
5 that I'm standing there with my hand up in the stop
6 position, the fact that a police van has turned up with
7 blue lights, et cetera, if it was just a clear case of
8 a language barrier he would have turned, he would have
9 talked to us and you know, he could overcome that
10 communications barrier through language quite easy, or
11 with certain tools.

12 Q. So even if someone doesn't actually speak English
13 there's those non-verbal means of communication?

14 A. Yes.

15 Q. And your body language, effectively?

16 A. Yes.

17 Q. And is that normally an effective way of communicating
18 that you want someone to stop?

19 A. You could certainly get a reaction from somebody if you
20 jump out of -- if the police van turned up with blue
21 lights and sirens, or with blue lights in this instance,
22 you would expect somebody to turn round and go "Oh,

1 what's going on?" even if they didn't speak English,
2 they would be -- there would be a reaction from them.

3 Q. So even if English isn't their first language, or they
4 don't speak English at all, if they're of sound mind
5 they would usually have a reaction?

6 A. You would expect, yes.

7 Q. And would that be the case even if they couldn't hear
8 you, if the person was deaf, for example?

9 A. Yes, which is why you would get out with a (indicating),
10 everybody knows that's the stop sign.

11 Q. It's the visual behaviour?

12 A. Yes.

13 Q. Did you perceive at that time a risk of any cultural
14 differences because Mr Bayoh was black, or any sort of
15 misinterpretation by him of your approach to him?

16 A. I'm not aware of anything that would --

17 Q. Okay. If he had been white, would you have attempted
18 first to engage him in conversation?

19 A. No, it's like I gave that other example where it
20 happened recently after it. It was somebody is in
21 possession of a knife, so we go towards him and give the
22 clear verbal instructions to stay where they are, and

1 depending on what sort of reaction you get back is the
2 next step.

3 Q. Am I right in thinking that that incident that you
4 described, the person did communicate with you?

5 A. Yes.

6 Q. Yes.

7 A. But we still approached him in the same way, with the
8 spray drawn, and still with the (inaudible) "Stay where
9 you are, show me your hands", then once I feel safe,
10 then we will start communicating.

11 Q. Thank you. Can we look at paragraph 45 of your
12 statement, please. This is where you talk about
13 Tomlinson and Short arriving. Do you see that?

14 "At some point PC Tomlinson and PC Short arrived.
15 I was not aware of their arrival at the locus and cannot
16 comment on when they arrived, nor where I was positioned
17 when they arrived."

18 A. Yes.

19 Q. So you couldn't see them at that point?

20 A. It's not so much I didn't see them, it's just I wasn't
21 aware of them arriving, but yes.

22 Q. Okay. Let's have a look at the footage, please, the

1 enhanced video timeline, and we will play from further
2 on, please, 7.20.23 or thereabouts and we will play
3 this -- and while you are looking at this first of
4 all -- I think we will look at the CCTV footage, and
5 then we will play it again and we will focus on the
6 reconstruction tile if that's okay, so we will play it
7 twice, so it's a short period: 7.20.23 to 7.20.39.

8 (Video played)

9 So do you see now you have watched the CCTV, so
10 I think the second time we will play it we will look at
11 the reconstruction tile.

12 A. Mm-hm.

13 Q. Thank you. So for the same times, please.

14 (Video played)

15 Thank you. Were you able to watch the
16 reconstruction?

17 A. Yes.

18 Q. And do we see another white van arriving at this point?

19 A. Yes.

20 Q. And stopping. So that's 7.20, and the time on the
21 real time clock at the moment is 7.20.40. Would it be
22 possible to rewind slightly to 32 seconds, please, or as

1 near to that timing as we can. That's perfect, thank
2 you.

3 So at this stage, do you see on the reconstruction
4 tile that there is another vehicle approaching the
5 roundabout, or actually entering the roundabout?

6 A. Yes.

7 Q. And we can see on the CCTV below it, the vehicle itself?

8 A. Yes.

9 Q. And then if we can just move on slightly, there's two
10 blue dots near the van, we spoke about those before and
11 then just stop that there, so that's the second van
12 coming through the roundabout?

13 A. Yes.

14 Q. And at this point we see a blue dot behind -- at the
15 rear of the large police van.

16 A. Yes.

17 Q. Who do you think that was?

18 A. My guess would be that's PC Paton having been sprayed --
19 well, having -- the after-effects of his spray -- making
20 his way round to the other side of the van.

21 Q. We may hear from him at some point so ...

22 A. Yes.

1 Q. And then carry on please, Ms Wildgoose.

2 (Video played)

3 Thank you. So we see this second police van has now
4 arrived on Hayfield Road and is parked on Hayfield Road.

5 A. Yes.

6 Q. And it has reached a stage to the rear of your van, to
7 the rear of where the people have been. Do you know who
8 was in this van?

9 A. I do now, yes.

10 Q. You do now, but you couldn't see them at the time?

11 A. No, I had no idea who turned up.

12 Q. Were you towards the front of your van at the time they
13 arrived?

14 A. At that point was the point where I was suffering the
15 effects of the PAVA spray that had been flicked back at
16 me, so aye, I was blinking and trying to get my
17 orientation. I can't remember much of what happened at
18 that point other than I ducked away and then when -- the
19 next thing I was aware of was that both me and PC Paton
20 were on the driver's side of the van and then at that
21 point -- I'm kind of jumping on ahead a wee bit, but
22 that's the next thing I was aware of was Constable Short

1 being chased.

2 Q. Can I ask you about this moment when you ducked away.

3 Where did you duck away to?

4 A. Down the side of the van, on the driver's side.

5 Q. Would it help if we went back to the stills and we could
6 maybe see where you ducked away to. So this is number
7 6, I think. Yes.

8 So you have described earlier how you were walking
9 backwards in a defensive stance with your spray, your
10 PAVA spray up?

11 A. Yes.

12 Q. And you couldn't turn your back on Mr Bayoh at that
13 point, so you told us that you ducked away. Where did
14 you duck away to?

15 A. I think that was a reaction to the spray taking effect
16 and the -- I don't know exactly but I know the positions
17 that we ended up I think I was there and PC Paton had
18 managed to come round the back of the van, crossed over
19 me at some point and he was there.

20 Q. So he was closer to the front of the van then?

21 A. Yes, we had managed to crossover at some point but
22 I don't know how. As I say, that would be just as the

1 effect of the PAVA spray on my eyes.

2 Q. I would like to try and get an explanation from you
3 about how you moved from the nearside of the van walking
4 backwards holding the spray to being on the other side
5 of the van.

6 A. Yes. It's like I -- I thought I explained that I was at
7 the front headlight cluster which would be --

8 Q. Do you want to point to that?

9 A. Yes, number 3. And then as Mr Bayoh's -- I've got his
10 attention, he has been walking back towards me.

11 Q. Do you want to use the line, that might be useful to see
12 that. Maybe even to use a red circle first actually to
13 point out where Mr Bayoh was, and then you can draw the
14 line. So if you point to where Mr Bayoh was.

15 A. So he has started walking --

16 Q. So he is there. The spray with Paton is over --

17 A. Yes, he was trying to (inaudible overspeaking)
18 direction.

19 Q. -- and he was attracted -- his direction, and then
20 I think we're going to give you a line and you can --

21 A. Right. I will stop touching it.

22 Q. Just use the screen and show us. So he is walking

1 towards you --

2 A. Yes.

3 Q. -- where you're standing, and you're walking back and
4 you have told us that there wasn't really an escape
5 route, you couldn't turn your back on him, so how was it
6 that you moved from position 3 to position 1?

7 A. Because I was trying to create the space so I was coming
8 back round the front of the van to try and get -- to
9 create the space and he has followed me round the front
10 of the van.

11 Q. Right.

12 A. And then at which point I have sprayed my PAVA into his
13 eyes and made quite good contact with it, and it's had
14 no reaction. He has wiped his face with the PAVA spray
15 and just -- I wouldn't say flicked it in my direction
16 but wiped his face and flicked into the air and I felt
17 mild effects of the PAVA in my eyes at that point and
18 just instinctively more than anything I have just turned
19 and tried to -- just a reaction to turn and get away
20 and, as I said, the next thing I'm aware as my vision
21 was coming back to me was I was in position 1 and
22 PC Paton was at position 2 and --

1 Q. So let's go through that. Did you just say a moment ago
2 you were at the front of the van when you discharged
3 your PAVA spray?

4 A. Yes.

5 Q. And was that near to the circle with 3 in it, or closer
6 to the front of the vehicle?

7 A. I was probably closer -- I had been forward round the
8 front of the vehicle and I was back towards -- if not
9 past it, the other front headlight, if that makes sense.

10 Q. So when you discharged your spray, do you want to use
11 a red circle to identify where you were?

12 A. I don't know exactly but it would be somewhere in the
13 region of around the front of the van as we were coming
14 round the front of the van.

15 Q. So right round the front near the driver's side?

16 A. Yes.

17 Q. And where was Mr Bayoh when you discharged the spray?

18 A. Probably somewhere about here (indicates).

19 Q. Okay. Are you happy with that position?

20 A. Aye. It's hard to say exactly but, aye.

21 Q. You can move them around if you touch them again, but
22 that's an indication of where he was?

1 A. Roughly, yes.

2 Q. And then describe again his reaction to your use of this
3 spray?

4 A. Like I said earlier, with PAVA spray you have to get
5 a direct contact with the eyes because it doesn't go
6 into a cloud, so I sprayed, got a good contact with his
7 eyes, his face and his eyes, it appeared to have no
8 reaction at all and then he just wiped the spray that
9 was on his face and just sort of flicked it away off his
10 hand.

11 Q. What was the distance between you and Mr Bayoh when you
12 discharged your spray?

13 A. It would be somewhere in the region of 12 to 15 feet.

14 Q. And is that sort of within the range of a PAVA spray?

15 A. Yes.

16 Q. And when you saw that -- did he still have that thousand
17 yard stare on?

18 A. Yes, that never changed.

19 Q. And when you saw him wipe the PAVA spray off his face
20 and flick it away, how did you factor that into this
21 review, this risk assessment issue that you're doing?

22 A. It concerned me that it had no effect on him because

1 like I say that was one of my go-to tools so it
2 concerned me that it had no effect on him but that was
3 immediately replaced by the fact that I was then
4 incapacitated by the PAVA which was one of the points
5 that PAVA is not meant to have cross-contamination and
6 it had an effect on me at that point, so aye, I went
7 from probably pre-planning into -- I would probably say
8 my reaction at that point was survival, just get away,
9 turn my -- try and get myself to a place of safety as
10 opposed to a risk assessment or anything like that.

11 Q. Explain to the Chair how the PAVA spray affected you,
12 what impact that had?

13 A. It immediately makes you close your eyes and as part of
14 that I -- I don't know the biology behind it but you do
15 sort of immediately try and -- supposed to try and get
16 away from the pain, you duck away and turn away and your
17 hands come up to your face and as I say, I think that's
18 just an automatic reaction, that's something you don't
19 have control over.

20 Q. So having been someone who had very few physical
21 limitations, you then become quite incapacitated; is
22 that fair to say?

1 A. Yes, aye, aye, to a certain extent, I mean it wasn't
2 a full dose of PAVA spray that I had but yes, that
3 severely affected -- for the seconds that I was
4 incapacitated from it, aye, I couldn't see,
5 I couldn't --

6 Q. I was going to ask you, how long did you have your eyes
7 closed?

8 A. I only got, like I say, it was a few droplets, but aye,
9 a couple of seconds, enough for us to -- or to not know
10 how I got towards the sort of back-end of the van.
11 I opened my eyes and that was the situation I was
12 presented with at that point.

13 Q. So you closed your eyes because of the PAVA spray?

14 A. Yes.

15 Q. After you had been in -- we see circle 6 there?

16 A. Roughly, yes.

17 Q. And then by the time you open them, you're in position 1
18 at the rear wheel?

19 A. Yes, near enough.

20 Q. And you have had your eyes closed for that -- the length
21 of the vehicle really?

22 A. Yeah, pretty -- I mean --

- 1 Q. Is that a reasonable indication?
- 2 A. That's reasonable, yes. I don't ken exactly where I was
- 3 in relation to the van, I had my back to the van but
- 4 I was aware of the fact that the van was behind me when
- 5 I opened my eyes again and PC Paton was off to my left.
- 6 Q. So the van was at your back and you were facing out from
- 7 the van?
- 8 A. Out from the van, yes.
- 9 Q. Out from the van. Towards the other side of
- 10 Hayfield Road?
- 11 A. Yes.
- 12 Q. Right. And PC Paton at that time, as you stood there,
- 13 would have been on your left?
- 14 A. Yes.
- 15 Q. And he is -- we have not heard from him, but he has come
- 16 from the corner in Hayfield Road round to behind the van
- 17 as well.
- 18 A. Yes.
- 19 Q. Where at that point was Sheku Bayoh?
- 20 A. At that point, or the next thing I was aware of is him
- 21 appearing in my line of vision coming from behind our
- 22 van chasing after PC Short.

1 Q. So can you point out with another circle where he was
2 when you first saw him, when you were in position 1, or
3 give us an indication if you can?

4 A. He must -- I mean he is coming from behind the van into
5 my line of vision. I don't know exactly how far away he
6 was from the van, but he would be somewhere in the
7 region of number 8.

8 Q. So he has been in position 7, he has been sprayed by
9 you, and somehow he's got to position 8?

10 A. Yes.

11 Q. But your eyes have been closed up until then --

12 A. Yes, blinking furiously, yes.

13 Q. Or blinking furiously. What direction is he facing when
14 you see him at position 8?

15 A. He is actively running diagonally from 8 across the
16 road.

17 Q. Could you show -- draw us a line?

18 A. So that was the sort of direction of travel.

19 Q. Right, all right.

20 Well, I want to come back to this but I would like
21 to go back to the footage, if you don't mind. Is that
22 possible to do that now, thank you. So we're going to

1 play it from 7.20.16. It is a very short period so
2 although we can see your van again, we might as well
3 just carry on and then I will ask Ms Wildgoose to play
4 that now.

5 (Video played)

6 Could you stop it there please. Can we go back
7 slightly? Let's just play it from there and I will tell
8 you when to pause please.

9 (Video played)

10 Can we pause it there. So at the moment there's no
11 blue dots there, but a second or two back from that
12 there were a couple of blue dots.

13 Can you give any indication of -- so there's two
14 blue dots there at the rear of your big van, between
15 your van and the smaller van that's arrived on the
16 scene. At that stage do you know where you were? You
17 have said that you were at the driver's side of your big
18 van.

19 A. Yes.

20 Q. With PC Paton?

21 A. Yes.

22 Q. And the blue dots, do you know who they would indicate?

1 A. No.

2 Q. No. Not at all, right. Carry on please.

3 (Video played)

4 Stop please. And then we see another blue dot
5 there. Do you think you and PC Paton were on the other
6 side of the van at this stage, or are you not sure?

7 A. I was always at the van until --

8 Q. Always at the van until later.

9 A. Yes, until we witnessed the chase.

10 Q. Then can we just show the next part please, very
11 briefly.

12 (Video played)

13 Right, stop. We see that blue dot and that appears
14 to be somebody travelling between the vans, between the
15 rear of the big police van, your van, towards the front
16 of the smaller police van.

17 A. Yes.

18 Q. Do you have any idea who that might have been?

19 A. That could be either or both Mr Bayoh and PC Short from
20 that position, that would be my guess.

21 Q. All right. We will hear other evidence about that.

22 Right, I would like to move on to -- you have

1 mentioned Nicole Short.

2 A. Yes.

3 Q. PC Short.

4 A. Yes.

5 Q. We may hear that in fact she was in that smaller of the

6 two vans, that she arrived at the scene with

7 PC Tomlinson. I think you probably --

8 A. I believe that to be the case now, yes.

9 Q. You believe that to be the case now.

10 And I will be coming on to this in a bit of detail,

11 but can I look finally at paragraph 46 of your statement

12 and do you see:

13 "The first I saw PC Short was her running away from

14 Sheku Bayoh and he was chasing after her. It was clear

15 to see that PC Short was in a state of panic as she ran

16 away from Sheku Bayoh. He was about 4 feet behind her.

17 I turned away briefly to communicate with PC Paton and

18 as I looked back to PC Short again, I saw she was

19 falling to the ground with the male right behind her.

20 Both of her feet were off the ground and he had his

21 hands raised. I formed the opinion that she had been

22 pushed to the upper part of her body."

1 So this part of your statement, this is your
2 perspective when you're behind the van, at the driver's
3 side of your van, is that right?

4 A. Yes.

5 Q. And this is the moment when you see Sheku Bayoh again --

6 A. Yes.

7 Q. -- after you have cleared your eyes from the spray and
8 you see she is running away from Mr Bayoh and he is
9 chasing her at that point.

10 A. Yes.

11 Q. So that's going on on Hayfield Road behind -- the area
12 behind your van?

13 A. Yes, between -- between the two vans, as far as I'm
14 aware.

15 Q. Between the two vans. He is about 4 feet behind her and
16 you say:

17 "I turned away briefly to communicate with
18 PC Paton ..."

19 Can you tell the Chair how long would you estimate
20 that you turned away for?

21 A. Long enough to say "Alan, give me your baton".

22 Q. Right, and so you say that to him. Where is PC Paton at

1 this point?

2 A. He's to my left-hand side at the front of the van. Aye,
3 so I have looked that way -- being aware of the chase
4 and the movement, I have looked, seen the chase, looked
5 at Alan and said "Give me your baton", and I looked back
6 to see what was going on.

7 Q. So brief -- a brief turning away?

8 A. Yes, aye.

9 Q. And PC Paton is on your left at that point?

10 A. Yes.

11 Q. Is he still incapacitated by the spray?

12 A. Yes.

13 Q. Is he still crouched down?

14 A. Yes.

15 Q. Are his hands still at his face?

16 A. Yes, aye. He is still fully under the influence of the
17 incapacitant spray.

18 Q. Because he had CS spray; you had PAVA?

19 A. Yes, yes.

20 Q. When you turned to him and asked for his baton, what did
21 he do?

22 A. At that -- I'm not sure, because I turned back to see

1 what was happening, but I just assumed that he would be
2 getting his baton for me.

3 Q. And when you turned back -- do you want to look at
4 paragraph 47 of your statement. You will see:

5 "I turned back to PC Paton briefly as she was in
6 mid-fall and obtained PC Paton's baton from him."

7 A. That's a typo, that should be "I turned back in the
8 direction of PC Short".

9 Q. PC Short, I thought that might be the case. So you
10 turned back looking to your right to PC Short and she
11 was in mid-fall?

12 A. Yes.

13 Q. Can you describe what that mid-fall looked like?

14 A. Both feet were off the ground. It's hard to explain it
15 but yes, somebody who is -- you know, the top part of
16 her body was further forward than her feet, there was no
17 way she could keep her balance and she had been running
18 at the time so both her feet were off the ground and she
19 was clearly going to fall at that point.

20 Q. What direction was she going to fall in?

21 A. Forward. She was running forward.

22 Q. Sorry, I wasn't clear. Towards Hendry Road or towards

- 1 the other side of Hayfield Road?
- 2 A. Towards the other side of Hayfield Road. They started
- 3 to run diagonally so she was just continuing the path
- 4 that she had been running on.
- 5 Q. So she is also running diagonally at that point?
- 6 A. Yes. Well, I think -- yes. They were going from one
- 7 side of the road to the other. Maybe it was not
- 8 45 degrees, but they were crossing diagonally, yes.
- 9 Q. Thank you. I think just to finish off this passage,
- 10 when you turned back to PC Paton did he give you his
- 11 baton?
- 12 A. No, he didn't have it at that point.
- 13 Q. He didn't have it, or he wasn't giving it to you?
- 14 A. He didn't have it, he hadn't produced it at that point.
- 15 Q. He hadn't produced it?
- 16 A. Yes.
- 17 Q. So what did you then do?
- 18 A. At that point, I turned back to him -- I was already
- 19 facing him and says to him "Alan, give me your fucking
- 20 baton".
- 21 Q. And what did he do when you said that?
- 22 A. I think he started to get his baton at that point.

1 I see him starting to go down to his belt to remove his
2 baton from its carrier.

3 Q. To hand to you?

4 A. Yes, I believe so.

5 Q. How long did that take?

6 A. A couple of seconds for him to draw the baton. He drew
7 the baton, he extended it and then he passed it -- or
8 held it up to me to take from him, so literally that
9 long, 2 or 3 seconds.

10 MS GRAHAME: Okay. I'm conscious of the time.

11 LORD BRACADALE: Yes, would that be a convenient point to
12 stop then?

13 MS GRAHAME: Yes, it would actually. We can return to this
14 in the morning.

15 LORD BRACADALE: Very well. We will adjourn now until
16 10 o'clock in the morning.

17 (4.01 pm)

18 (The Inquiry adjourned until 10.00 am on
19 Friday, 20 May 2022)

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